

NSRAC Internal Review, June 2009, Facilitator's Report

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Introduction

The following are my reflections on the internal review discussions carried out at the Executive Committee meeting on June 29th 2009 in Gothenburg, Sweden. This report should be read in tandem with the notes prepared by the rapporteur where a comprehensive description of the conversation can be found. Here I take much of this original material, summarize and organize it according to what I saw as the main themes that emerged. I add a few of my own opinions about why I think these themes are important. While almost all of this material comes directly from things that were said during the review, this part of the report expresses my biases and interpretations and should be read that way.

1 History

The internal review placed considerable emphasis on the history of the NSRAC. An important point was that the fact that the NSRAC had been preceded by the North Sea Commission Fisheries Partnership (NSCFP) meant that members were already accustomed to working effectively with each other. The NSRAC has been successful more quickly than might be expected in handling competing viewpoints. The group felt that genuine negotiations are taking place and that compromises are being worked out when formulating advice. This history also contains some baggage. The NSCFP was an informal, Chatham House rule-based discussion in which the environmental NGOs were not involved. This shift to the NSRAC as a formal entity of the European Commission has brought with it a more institutionalized environment addressing a greater range of issues, with less control over what those issues are.

The NSRAC has had some important successes and its political legitimacy is increasing. The cod recovery conference was successful in influencing the Commission. The Commission accepted the NSRAC's advice on the successful flatfish management plan. Nevertheless, there have been a number of real frustrations in getting NSRAC advice heard, to the point that the NSRAC is sometimes treated as another stakeholder rather than a stakeholder forum with advisory duties. The Commission may not have understood the strength of the NSRAC's advice on some issues. One example was the failure to persuade the Commission that a TAC increase for cod would reduce discarding. Another was the margin of tolerance issue, where the NSRAC had appealed against a value of 8%, only for the Commission to come back with a value of 5%.

In sum, the group seemed to feel that the NSRAC is not working well if judged simply by immediate results, but that from a long-term view progress is being made.

This history should be seen as part of the broader political progress of fisheries management in Europe. European fisheries management is caught up in the nation-building exercise of the European Union. This has led to the untenable situation where the CFP attempts to manage fisheries at too broad a scale and with implicit objectives that have nothing to do with either conservation or fisheries economics. The Commission is itself divided because while they generally want to see fisheries managed well, their day-to-day tasks often require top down, command and control decisions. The creation of the NSRAC was a compromise between the desire to make management more effective through regionalization and participation, and the desire to continue top down control. This compromise meant that RACs were created but

with severely limiting conditions. The NSRAC in particular has taken it upon itself to become more relevant than that compromise envisioned both to achieve its member organization's objectives and improved marine management in Europe. The NSRAC has had to take up the challenge of creating a meaningful role for itself because the one created for it was ambiguous.

2 The role of the NSRAC

The NSRAC deals successfully with a wide range of topics and responds authoritatively on many of them. Indeed, the Green Paper on Reform of the CFP had echoed many of the views expressed by the NSRAC and had endorsed a more regional approach to fisheries management, greater involvement of stakeholders and less micro-management by the Commission.

One of the areas where ambiguities over the role of the NSRAC have become apparent is the balance between fisheries concerns and concerns about other aspects of the marine environment. Some participants felt that the NSRAC's scope had become too wide and it had drifted away from discussions of fishing, where the main emphasis should be. There is a fear that areas of interest will become too broad, making the NSRAC less relevant. Given the complex politics of the CFP, perhaps the ambitions of the NSRAC are higher than is realistic. However, another participant pointed out that generic issues are emerging which should be dealt with by the NSRAC as a whole. In a growing number of issues NGOs and the fishing industry will find themselves having similar positions because green considerations will be increasingly linked to marketing fish. General ecosystem health is also become a more urgent policy question because of the emphasis in the Green Paper and the Marine Strategy Framework Directive on broader ecosystem questions and their relationship to fisheries.

One clear tension is between a focus on strategic, long term thinking and "fire fighting" in reaction to the Commission's current suggestions and proposals. One perspective was that the NSRAC should not be looking at the fine details of fisheries management. For example a key role for the NSRAC should be to provide input into the CFP reform. The NSRAC should participate fully in those discussions and find ways to facilitate direct participation from stakeholders. From this perspective long-term, strategic management plans should be the priority action for NSRAC. They should be developed through a participatory process involving stakeholder meetings that would provide input to develop options for the fisheries concerned. It is unclear how this extension of participation beyond the RACs could be funded. It is also unclear how and by whom operational plans for specific fleets would be developed based on these strategic plans.

However, the NSRAC cannot be too strategic; fishermen have to survive week-by-week and the rank-and-file of the fishing industry that many NSRAC members represent are concerned with what they see as immediate regulatory threats. There is a concern that many fishermen would see the long-term perspective as abstract, and wish for a concrete response to the issues affecting them. As long as the Commission is engaged in micro-managing fisheries fire fighting is going to be inevitable.

Fisheries management always involves both strategy and tactics. One suggestion was based on a distinction between co-operative management, in which various stakeholders concern themselves with the long term strategies for maintaining a healthy ecosystem, and co-management in which the fishing industry focuses on the day-to-day operations of sustainable fishing. The suggestion was that separate NSRAC bodies might be required to deal with cooperative and co-management issues. Again, this approach presupposes that the overall

system is not based on government micro-management of fishing operations but on a clear and efficient division of labour.

3 Building external relationships

It is not just the RACs, all the institutions involved in the CFP are caught between the vast need for reform and dealing with the day-to-day demands of an overbearing system. Member State institutions, ICES and the various European institutions all contain both reformers and recalcitrant bureaucrats; sometimes these are the same people just confronted with different problems. The NSRAC needs to find channels for using its advice and opinions more effectively. Indeed, the outputs of the NSRACs need to be marketed more effectively using a variety of routes for dissemination.

The Commission in particular can seem almost schizophrenic. NSRAC members express disappointment and frustration when the Commission sits through a NSRAC discussion and then ignores the recommendations that emerge. The Commission is questioning the validity of decisions which are unanimous or reached through consensus by a body that they set up in order to find consensus about policies.

Relationships with Member State governments can be more effective. Several NSRAC members feel that this should be a priority and that the NSRAC is not working with MS as much as it should. The relationship with Member States is one area where clarification of the NSRACs role is particularly a priority, and this is a real challenge because some MS governments are more supportive of the RACs than others.

Some members thought that closer contact should be sought with the EU Parliament, members of which have expressed strong support, even to the extent of calling for RACs to be the central institution in a decentralized CFP. The prospect of co-decision taking with the Parliament has strong implication for the way the NSRAC operates. For one thing the NSRAC advice should be made directly available to the Parliament in the future.

Developing relationships with the various institutions involved in the CFP must be a critical part of the NSRAC's strategy for fisheries management reform. This means careful understanding, because both allies and sceptics can be found in all of these institutions. The NSRAC should also be aware that the ecosystem approach writing is on the wall and relationships with environmental agencies, both at the EU and MS level, is going to become increasingly important to the fishing industry whether welcomed or not.

The internal coherence and the ability of the NSRAC to be well organized internally, and its ability to continue to come to agreement, will be critical to maintaining external relationships. This internal coherence leads to greater political legitimacy, which raises the basic question of stakeholder relationships.

4 Relationships with stakeholder groups

Effective external relationships depend on the NSRAC's political legitimacy. This can be perhaps be thought of in two ways: the vertical legitimacy that is gained when the NSRAC is seen as speaking for the stakeholder groups that its members represent; and the horizontal legitimacy that is gained when the NSRAC is seen effectively negotiating the various stakeholder interests.

Re Horizontal Legitimacy. In general the group felt that cooperation between the various stakeholder groups was one of the NSRAC's strongest points. One issue that has been raised externally is the overall composition of RACs. This issue did not play an important role in

this internal evaluation. It was felt that the current composition was functioning and that there is ample opportunity for all members to engage as they wish. One specific exception to this was that participation by a consumer representative would be desirable.

Re Vertical Legitimacy. It was also felt that members should be able to make decisions on behalf of their respective organisations. Their organisations had in effect delegated responsibility to them and accepted that they had the required knowledge and maturity to represent their organisations' views.

The need for a stronger practical link between the NSRAC and the grass-roots fishing industry was a very common issue in the discussion. The NSRAC has enabled fishermen from different member states to compare their suffering under the CFP. However, there are real issues of political legitimacy in the eyes of the fishing industry. More steps should be taken to communicate the NSRAC's work to the industry. There is a fear that the NSRAC will lose contact with fishermen if it does not secure gains for the industry. The work of the NSRAC must be seen to yield results – the NSRAC must not be seen as just a talking shop. One suggestion was to find ways that fishermen could participate in the work of the NSRAC at the level of their fleet or fishery. Contact with the industry over the formulation of Long Term Management Plans is one immediately relevant vehicle.

This discussion points up the question of how well or poorly the NSRAC represents its various constituencies. As the NSRAC becomes more deeply, and perhaps more formally, involved in fisheries management decisions, its legitimacy will depend on the “downward accountability” it has to the people its membership is speaking for. How well the grass-roots see themselves as represented depends on their attitudes towards the groups that sit on the NSRAC. These groups handle issues of representation in different ways and so it is a complicated question how much the NSRAC should involve itself directly in questions of representation or leave this question to the individual professional organizations. Clearly, the NSRAC has an important stake in legitimate representation, so this needs to be a careful, ongoing discussion. There may also be a need for gathering systematic information on how grass-roots constituents view the NSRAC, including how well they feel they are being represented.

5 The Knowledge base for NSRAC Advice

The knowledge base for NSRAC advice is a continual problem. Getting input from natural and social scientists is crucial for many of the matters that the NSRAC must comment on; otherwise the NSRAC is basing its advice only on its industry' members operational knowledge of fishing, with other stakeholders reduced to the role of debating partners. Such operational knowledge is absolutely necessary, but high quality advice must have a broader knowledge base through which operational knowledge is linked to scientific knowledge of the social and marine environments. There is a need to balance economic with ecological advice. Comprehensive LTMPs in particular will require economic, environmental and social expertise. The contacts gained through the NSCFP need to be renewed. The NSRAC lacks independent expertise and resources for obtaining that expertise.

Some progress has been made in getting advice for the demersal working group and the Ex-Com, but these arrangements need to be formalised. The arrangement to receive advice from ICES was only working where the need could be anticipated well in advance. The MIRAC meetings provided little feedback and funds for NSRAC interests within the ICES system are *ad hoc* at best.

One important source for potentially relevant information is through scientific projects that directly address questions of interest. The NSRAC is often approached by institutes engaged in research projects seeking support and participation. The resources these projects make possible can be useful to the NSRAC, and the NSRAC aids the projects by ensuring that the research remains relevant to practical management needs. The main problem is that research projects seem to always be based on concepts developed by the research institutes in response to particular research calls and then presented to the NSRAC for a yes or no response. Sometimes this happens after the project is designed, funded and in progress. Some of this pre-packaged content, particularly that created by the limits set by the research calls, cannot be avoided. However, this problem could be greatly reduced if the NSRAC engaged fully in project development before the submission of the funding proposal. In some cases the NSRAC could take the initiative itself to develop projects, but extensive time and resources are required to identify funding sources and create competitive proposals, and the NSRAC does not currently have such resources. The NSRAC, however, can develop “terms of engagement” that apply when scientists are developing projects. Projects above a certain minimum budget should perhaps have a mandatory requirement to consult with the NSRAC during the development of the research proposal if they expect NSRAC participation in the implementation of the research.

6 Building time for reflection and strategic thinking

Long-term challenges require an adaptive approach to managing the NSRAC that is able to anticipate changes in the external environment. This is true in respect to the users of NSRAC advice. This is sometimes required on a timescale which is very difficult for the NSRAC to cope with. It is also true in respect to working across RACs where internal issues made it difficult to cross-consult.

Reflection is needed about the ways that the NSRAC does its day-to-day work. There is duplication among the tasks of the Working Groups, ExCom and the General Assembly. The various roles of these internal bodies need to be examined.

Some practical items make reflection more difficult. Several issues arose around the question of the fragility of the NSRAC because of its dependence on a fairly small central group whose future participation cannot be guaranteed. For example, only a few people are available to draft papers. Balance of different kinds of stakeholders and continuity of key people is important, particularly with regard to the working groups. The need for different kinds of stakeholders in working groups puts pressure on everyone. Much of this is outside of the NSRAC’s control as long as the CFP is based on micro-management and different needs for “fire-fighting” continue.

Some members attended meetings but don't have much to say because they lack expertise in the most commonly discussed issues. Some members only rarely attend NSRAC meetings. One suggestion was that if a member organisation did not attend a meeting within a specified, formally-defined, time period, then the place should be withdrawn and given to another group seeking a place.

Internal procedures are at times unclear. Participants do not always have access to papers well before meetings. Action points identified in the reports could be followed through and placed at the front of the agenda for the next meeting. Re-election rules require clarification; for example how should working group chairs be elected and re-elected. Procedural rules could be on the website and there should to be an induction programme for new members so that they are familiar with how NSRAC functions.

7 Practical Responses and Tools

This last section sets out some potential directions actions for addressing the issues raised above. Overall, the prioritisation of work could reflect an annual work-plan and/or a comprehensive 5 year strategy. The yearly schedule could also reflect such priorities, for example by reducing the frequency of ExCom meetings and allocating those resources to the demersal working group for the development of the LTMPs. A survey of members and stakeholders could be undertaken to prioritise topics in which NSRAC should engage.

The more novel recommendations of the internal review can perhaps be summarized as calling for the development of three strategies and for the relatively quick implementation of a series of operational improvements. The three strategies all require further fleshing out and the NSRAC may want to find ways to make them into specific agenda items.

The first strategy focuses on external relationships beyond the Commission. The internal review felt that there were real possibilities in improving the NSRAC's relationships with the European Parliament and the Member State governments. One idea, for example, was the development of an MOU with Parliament.

The second strategy focuses on increasing the legitimacy of the NSRAC, with the greatest felt need being how the NSRAC is seen by the rank-and-file of the fishing industry. This is a matter requiring reflection and discussion because while the NSRAC has a strong interest in how it is seen by local fishermen; effective representation is primarily the responsibility of NSRAC members, not the NSRAC itself.

The third strategy focuses on the division of labour among the various NSRAC bodies and members. Not all stakeholders have the same kinds of contributions to make to the NSRAC advice and/or long term management plans. Given how overextended NSRAC's core group is, it seems important to make sure that people are doing the tasks and attending the meetings where their input is most needed.

Operational improvements suggested included both long-distance communications and improved physical meetings. Communication tools can be used more effectively, including an improved website. Travel could be reduced through virtual meetings using tools such as email and Skype. Video conferencing could even be set up to allow fishermen to interact with the NSRAC.

Communication with participants also needs to be improved through the website where translated reports and papers can be made available in advance of meetings. Share-point is one specific technology that might be of use because it uses a very simple interface to develop shared documents. This could easily be added to the web site. Other suggestions for the web site included a list of relevant non-NSRAC activities and Commission activities on the calendar. The website could be used to develop a document that helped to clarify internal operations.

Physical meetings could also be improved. During meetings greater use of breakout groups could encourage less formal debate. For example, a workshop style event could be used to develop annual and 5-year plans. Choice of venue could take greater account external factors and the requirements of the meeting, particularly with regard to the Demersal WG.

This summarizes the action ideas that emerged from the internal review that seemed to be both newer and reflect an internal consensus. The internal review process itself may need to continue and perhaps be regularized.