

## OPINION

### **LDAC recommendations to improve work of EFCA Advisory Board and participation of ACs in EFCA Administrative Boards**

**Date of adoption by Ex.Com: 26 May 2020**

**Reference: R-06-20/WG5**

#### **Article 40 of Regulation (EU) 2019/473 on the European Fisheries Control Agency (henceforth, “EFCA Founding Regulation”)**

1. *The Advisory Board shall be composed of representatives of the Advisory Councils provided for in Article 43 of Regulation (EU) No 1380/2013, on the basis of one representative designated by each Advisory Council. Representatives may be replaced by alternates, appointed at the same time.*

2. *Members of the Advisory Board shall not be members of the Administrative Board.*

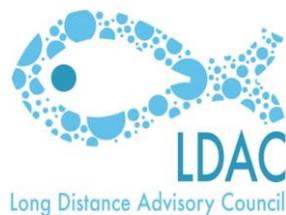
*The Advisory Board shall appoint one of its members to take part in the deliberations of the Administrative Board without the right to vote.*

3. *The Advisory Board shall, at the request of the Executive Director, advise him or her in the performance of his or her duties under this Regulation.*

4. *The Advisory Board shall be chaired by the Executive Director. It shall meet, at the invitation of the Chair, not less than once per year.*

5. *The Agency shall provide the logistic support necessary for the Advisory Board and provide a secretariat for its meetings.*

6. *The members of the Administrative Board may attend the meetings of the Advisory Board.*



## **Proposal on Article 40.2 EFCA Founding Regulation** **Representation of ACs in the EFCA Administrative Board meetings**

### Context

This is a recurrent issue that has come in practically all the Advisory Board meetings since its inception. With reference to the rotatory system of the Advisory Board representative (currently in a 1 year-cycle of duration), the founding regulation of EFCA does not specify its duration, therefore there is flexibility in this respect. Therefore, the Advisory Board is entitled to make a new proposal and bring this item to the attention of the Administrative Board.

Furthermore, recommendation number 2.1.3 on governance and section 2.2.3 of the five-year independent external evaluation of the EFCA (2012-2016) asks for better interaction between the Advisory Councils and the Administrative Board<sup>1</sup>. A long term approach to this issue is needed to enhance the advisory role and could be promoted through a higher presence and active involvement of Advisory Council representatives in the Administrative Board.

It has become clear from working experience that one AC representative rotating on an annual basis is not the ideal solution for a number of reasons.

Some ACs are more active and interested than others in the area of fisheries control and compliance and their particularities and issues might differ considerably from one area to other (e.g. implementation of landing obligation within EU waters vs focus on IUU fishing outside EU waters).

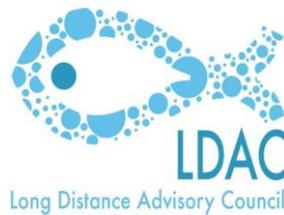
There might also be problems in terms of conveying unified messages on behalf of many ACs due to lack of feedback amongst the ACs prior to the meetings, although this is more an issue of internal coordination amongst the ACs themselves.

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<sup>1</sup> EFCA 5-year evaluation final report:

<https://www.efca.europa.eu/sites/default/files/Five%20year%20independent%20external%20evaluation%20report.pdf>

Issuing or recommendations: <https://www.efca.europa.eu/sites/default/files/EFCA%20evaluation%20-%20issuing%20of%20recommendations.pdf>



## Recommendations

A number of solutions are possible.

The most ambitious one would be, if amendment of the EFCA Founding Regulation occurs, to allow additional members of the ACs to become members of the Administrative Board.

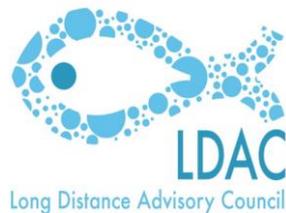
A more realistic solution would be to allow additional representatives for different ACs to attend the Administrative Board in observer capacity, taking into account the necessary balance between stakeholders (industry/NGOs). If the one year rotation system continues to be the most suitable option, the appointed designated AC and its alternate could be the 2 representatives.

This should not preclude other options such as for example, the possibility that the Administrative Board members (whether Member State or European Commission representatives) request to invite additional AC representatives in expert capacity to deal with specific issues to be dealt with in the agenda.

Last, in the experience of some previous AC representatives, the format of the reporting from the ACs is not always the best as it is usually placed at the end of the meetings under AOB, allowing small time for meaningful debate.

### **In summary, the LDAC:**

- **Believes that additional representatives from the EFCA Advisory Board at the EFCA Administrative Board would bring added value and more visibility to the role that this organ play in involving stakeholders in discussing control and enforcement measures.**
- **Would like to invite EFCA Executive Director and members of the Advisory Board, as well as other ACs, to think collectively to come up with a clear proposal ahead of the next Advisory Board in October/November 2020.**



## **Proposal on Article 40.3 of EFCA Founding Regulation** **Creation of Terms of Reference for the EFCA Advisory Board meetings**

The LDAC welcomes and supports the idea of contributing to drafting a proposal for a new terms of reference that can be discussed in the October 2020 meeting. The LDAC also believes this could be considered as an element for reflection in the process of evaluating the functioning and performance for the EFCA new 5 year period which will start in 2021.

A prospective Terms of Reference (ToR) should address ways in which relationship between the ACs and EFCA could be improved. Some of the questions referred are:

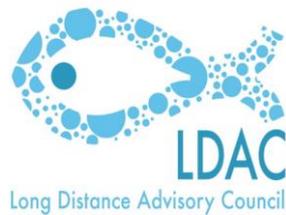
*- How the Advisory Councils can better advise EFCA?*

A LDAC task force or members of the Executive Committee should be able to hold regular video conferences (e.g. once every 4-8 weeks) with EFCA staff from the concerned units (North Atlantic, Coast Guard and International Programmes) to discuss issues of common interest which mainly relate to:

- Achieving an effective implementation of the EU Fisheries Control System outside EU waters, with focus on Fisheries Control Regulation (EC) 1224/2009; IUU Regulation (EU) 1005/2008; and SMEFF Regulation (EU) 2017/2403.
- Promoting leadership of the EU in the International Ocean Governance, amongst other by promoting an enhanced role of EFCA in the field of the external dimension of the CFP, particularly in RFMOs such as NAFO and ICCAT and in management of areas beyond national jurisdiction (high seas).
- Promoting a regional approach to fisheries management, MCS and fight against IUU fishing in specific world regions such as West Africa (Gulf of Guinea) or the Indian Ocean (Somalia/Seychelles/Mauritius);
- Enhancing capacity building and training missions in third countries and optimizing use of sectoral support for MCS purposes in SFPA beneficiary states;
- Exploring synergies in maritime governance and surveillance and following initiatives of the European Coastguard Force (EMSA/EFCA/FRONTEX).

*- How can EFCA be more useful to the LDAC and help with providing more tailored feedback related to better data and information flows?*

EFCA could promote greater collaboration with the fishing industry, through the Advisory Councils, in terms of providing training and information in relation to inspections procedures at sea. This could be achieved under the SCIP/JDP schemes, so ECFA could assist fishers and crews at sea by setting up a "*Training and Information JDP*".



This Training and Information JDP would aim at giving guidance to skippers and fish workers on how to implement and comply with the different measures laid down in the CFP and Fisheries Control Systems tailored to the characteristics of each fleet segment. For instance, for the case of the EU Distant Water Fleet (DWF), this could be specific training sessions on implementation of Fisheries Control and IUU fishing aspects related to administrative, technical and logistical requirements linked to electronic catch documentation schemes or transshipments at port in third countries, amongst others.

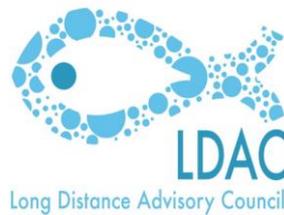
This JDP could also target specifically the implementation of new regulations coming into force as is the case of the Landing Obligation or Sustainable Management of the External Fishing Fleet (SMEFF), for example.

In order to achieve an effective implementation of this “Training and Information JDP for fishers”, it could be a good idea for EFCA to create a platform or network of information and data exchange (similar to those already in place between EFCA and MS or the MARSUV SERVICE) where Advisory Councils had access to data on non-compliance observations after boarding. This data would be collected and used for dissemination purposes and channeled through the AC to its industry representatives so a better understanding is gained by the fleets of how to apply specific rules on board (as unanimously accepted by MS).

This pilot project or initiative could assist to promote a culture of compliance amongst EU fishing fleets and ensure a level playing field between all EU fishing operators on the basis of promoting greater transparency and understanding of control management objectives and gradual implementation of best practices. Such a tool should consider a dedicated section of dissemination to show the results/acceptance and understanding of the rules by the recipients and to foster studies on improving compliance in all concerned fisheries.

The LDAC would support this pilot project or initiative provided that such a mechanism respects the basic rules related to confidentiality of commercial fishing operations and general data protection regulation in the individual observations made (i.e. vessel names, VMS positions, etc.) and be seen not as an enforcement but as a collaboration tool.

The LDAC would like to propose that EFCA consult the Advisory Councils specifically in the preparation of their priorities for the drafting of such a JDP asking for their input on specific items so they can be dealt with at future meetings of the EFCA Advisory Board.



Another aspect for EFCA would be to provide a periodic briefing on issues of interest for the distant water fleet, including an updated calendar of EFCA training missions in third countries, report on their trips in assistance of European Commission in support of fight against IUU missions, or their involvement in research and development projects such as PESCAO, would be desirable.

Furthermore, EFCA could host once a year (e.g. in November/December) a series of meetings of the AC Executive Committees in their HQ/premises in Vigo for those who wish it. Specific side events or stakeholders seminars could be organized around MCS, control, enforcement and compliance issues with case studies or examples from sea basins targeted to participant AC members.

This idea of an "ACs week" would optimize participation of shared industry and OIG member organizations belonging to different ACs. It would also give more visibility to our joint work and could be also used for enhancing communication via press releases and presence social media.

*- How can EFCA and ACs ensure continuity and follow up of their work outside of the two annual meetings, e.g. during intersessional periods.*

The idea of appointing a permanent stakeholders' liaison or "help desk" officer could be useful to clarify the content, scope of certain control provisions allowing LDAC members to pose questions on effective implementation of control provisions, particularly related to JDPs in RFMOs such as NAFO or ICCAT.

*- How to ensure that all sectors and interest within the ACs are well represented?*

The LDAC Secretariat will ensure that a balanced delegation of 2-3 representatives from fishing sector and other interest groups participate in Advisory Board meetings. Where not possible and only 1 delegate is allowed, a member of the Secretariat might be appointed to participate collecting the views from all parties and channeling the requests from its members.

**-END-**