

14 INSTITUTIONAL AND INDUSTRIAL PERSPECTIVES ON FISHERIES MANAGEMENT IN NAMIBIA

Bendigt Maria Olsen

Abstract

The Sea Fisheries Act (SFA) of 1992 as well as the new Marine Resources Act (MRA 2000) provide for consultations with the fishing industry in the Sea Fishery Advisory Council and more recently in the Marine Resources Advisory Council. Besides, the industry participates in working groups, fora for information and discussion together with Ministry officials and scientists, in particular about research and stock assessment. The mandate and composition of the two Advisory Councils as well as Terms of Reference (TOR) for the working groups are examined. Based on interviews in 1997–98 and again in April–May 2000 the major part of this Chapter presents the experiences and expectations of the industry regarding their role in these institutions. Theories within the analytic framework of ‘new institutionalism’ are explored and found to have explanatory value. The state as a rational actor has created appropriate institutions for implementation of its objectives, while the industry also, from a rational, wealth maximising point of view, concur with the deal. Greater participation in the management process is, however, much requested by the fishing industry, emerging as a strong interest group. Their demands are legitimate in the tradition of participatory democracy, which so far is only at the outset in the Namibian society, characterised by a strong central power.

INTRODUCTION

While the world society long awaited the end of apartheid rule in Namibia, the UN system, with FAO as the driving force, in the 1980s started exploring alternatives for planning a new fisheries management regime for independent Namibia. This task resulted in the report: *The fisheries of Namibia and options for its management and development in the first period after independence* (UNDP/FAO, 1989). Prior to Namibia’s independence, the management and regulations of inshore fisheries were the responsibility of the South African administration in Windhoek, whereas the International Commission for the

Southeast Atlantic Fisheries (ICSEAF) tried to regulate the offshore fisheries. However, ICSEAF was without the necessary powers to enforce required regulations set according to scientific advice. Virtually uncontrolled fishing by European and South African fleets led to depletion of the main commercial stocks, sardine as from the beginning of the 1970s and hake in the 1980s (Hamukuaya, 1994). Built on proposals presented in the UNDP/FAO document, the Government presented the White Paper: *Towards Responsible Development of the Fisheries Sector* (RoN, 1991), which has been guiding the Namibian fisheries policy ever since. In 1992 these policies were translated into a legal framework, the *Sea Fisheries Act* (SFA) (RoN, 1992). At independence the new Government took full control of the fisheries sector in accordance with Chapter 11 *Principles of State Policy*, Article 95 (l) in the *The Constitution of the Republic of Namibia* (RoN, 1990), which *inter alia* states “utilisation of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future”. To a large extent fisheries can be seen as an exception to the general conservative policies in other economic sectors, e.g. land, mines and in the case of taxation (Leys and Saul, 1995; Rakner, 2001) where status quo was more or less let to remain in order to reassure and encourage private investment. However, also for the development of a viable fishery industry, private capital was certainly indispensable.

Soon after independence in 1990 the new Namibian government, realising the great economic potential of the fishery resources, declared a 200 mile Exclusive Economic Zone (EEZ). The introduction of an efficient fisheries management regime to rebuild resources was urgently needed. For this purpose the authorities did not hesitate in choosing the ‘state model’ (Hersoug and Holm, 2000) for future management of Namibian marine fisheries. In 1990 and still today this model is dominant among fishing nations in the western world. The ‘market model’ (Hersoug and Holm, 2000) was certainly by that time discredited while a ‘community model’ (Hersoug and Holm, 2000) was of little relevance since no Namibian traditional fishery community of any commercial significance existed¹. For the new government it was of utmost importance to control the exploitation of the resources. A new

¹ The ‘state model’ refers to a centralized and bureaucratic form of fisheries resource management, especially appropriate when resources are over-exploited. Control of fishing effort has priority. The ‘market model’ or the ITQ (individual transferable quota) model, emphasizing efficiency, uses the tools of the market for quota allocations. This model is now applied in several countries as a means to solve problems of overcapacity, underdevelopment and inefficient allocation of resources. The ‘community model’, based on local structures and co-management, stresses equitable and fair access to resources, thereby enhancing the legitimacy of resource regulations (Hersoug and Holm, 2000).

management regime was therefore defined to enable the state to take out the resource rent as well as promoting reallocation of access rights to allow new entrants from Namibia. In 1991 the new Ministry of Fisheries and Marine Resources (MFMR) was established and designated to be responsible for protection, monitoring, control and surveillance of all marine living resource within the EEZ. The Ministry was further given the responsibility to set up an institution for fisheries resources research, the tasks of which would include advice on catch quotas and other measures connected with fishery regulations (RoN, 1991). Already in 1989, however, research into large-scale fisheries started when a research group was established in Swakopmund. From independence responsibility for planning and execution of routine surveys with Research Vessel *Dr. Fridtjof Nansen* was shared with the Institute of Marine Research, Bergen (Sætersdal *et al.*, 1999). In 1993 the Swakopmund group became the core of the new National Marine Information and Research Centre (NatMIRC).

The importance of good communication with the public and the industry was recognised, and accordingly the *Sea Fisheries Act* (SFA) of 1992 (RoN, 1992) stipulated an institution, the Sea Fishery Advisory Council (SFAC), for consultations *inter alia* with representatives from the fishing industry and their employees. This provision was considered unsatisfactory by the industry, which requested more involvement in management matters than provided for within the mandate of the Advisory Council. In particular for the development of the new orange roughy fishery, it was acknowledged that more direct co-operation between the Ministry's scientists and the industry was required. A Deep Water Fisheries Working Group (DWFWG) was established in 1995 (Boyer *et al.*, 2001), and later working groups for hake, monk, horse mackerel and rock lobster were also planned. On 1 August 2001 there entered into force a new act, the *Marine Resources Act* (MRA, 2000) (RoN, 2000), which does not recognise working groups as statutory bodies. Legally the Minister is not obliged to consult with the working groups on management issues of living resources, but according to a ministerial officer they are now functioning again and are good for building trust and a feeling of ownership of research². In his *Annual statement on the status of the Namibian fisheries sector*, January 2002, Dr. Abraham Iyambo, Minister for Fisheries and Marine Resources, states *inter alia* that the Ministry of Fisheries "habitually consults extensively with the industry on certain matters before action is taken to adjust any aspect of policy" (Iyambo, 2002).

This chapter presents and discusses the views of the industry with regard to their experiences of, and expectations for, participation in the management process within the institutions of consultation. The bulk of informa-

² Communication with Dr. H. Hamukuaya, MFMR, March 2002.

tion is obtained by interviews with managers of the main fishing companies. In all, over 40 interviews with this group of respondents were carried out in the years 1997-1998 and in April-May 2000. Open-ended questions were applied in order to let the interviewee freely discuss the subject. For the purpose of understanding the Government's choice of management model and the Ministry of Fisheries and Marine Resources' interpretation of it, theories within the analytic framework of 'new institutionalism' are explored, such as rational choice theory and historical institutionalism. The request of the industry for more co-operation can on the other hand most likely be traced and explained within the paradigm of participatory democracy. Before turning to the theoretical framework a presentation is given of the Sea Fishery Advisory Council (SFAC) and its successor the Marine Resources Advisory Council (MRAC) as well as of the working groups and the leading associations of the fishing industry. The major part of this study relates to the opinions of the respondents regarding industry's participation in these institutions as well as their communication with the Ministry. A discussion of results and concluding remarks wind up the review.

INSTITUTIONS FOR CONSULTATION WITH THE INDUSTRY

Comparison between the Sea Fishery Advisory Council (SFAC) and the Marine Resources Advisory Council (MRAC)

The main objective of the new council remains the same as for SFAC, namely to "advise the Minister in relation to any matter on which the Minister is required to consult the advisory council in terms of this Act and any matter which the Minister refers to the advisory council for investigation and advice" (MRA, 2000, Part V Article 24). Both the old and the new Act stipulate consultation with the Advisory Council before the Minister determines a total allowable catch (TAC). The MRA in addition specifies that such decision shall be taken "on the basis of the best scientific evidence available", thereby reinforcing the principles of responsibility and sustainability (MFMR, 2000a). However, the clause in SFA that the Advisory Council in addition should advise the Minister in relation to "the management and development of the sea fisheries" is omitted in the new act, which could be interpreted as if the initiative lies only with the Minister to take up issues for discussion in MRAC. With regard to the constitution of the MRAC the total number of persons to serve on the council is reduced from 16 to 12. Besides the Permanent Secretary only one staff member from the Ministry of Fisheries and Marine Resources will serve on the council and there will no longer be any obligatory representatives from other ministries. Instead the Minister will appoint five persons with knowledge in matters relating to marine fish-

eries and expertise of relevance to issues, which have to be referred to the Advisory Council. And lastly, five persons are to be appointed, who according to the Minister “fairly represent the fishing industry or employees in the fishing industry”. The main difference with regard to this point is that while the SFA states that “five shall be persons who, in the opinion of the Minister, have had experience in or shown capacity in any matter relating to any branch of the fishing industry” (MFMR, 2000a), the MRA, however, stipulates appointment of five persons who *represent* the fishing industry. The new MRAC, established in September 2001, consists of only one representative of the trade unions while the Minister chose four representatives nominated by the industry to sit on the council³. The Advisory Council may determine times and places for its meetings which should take place “at least once a year”, in contrast to the old council which should meet “not less than twice a year”. However, the chairperson is obliged to convene a meeting of the Advisory Council not only when the Minister requires so but according to the new Act also upon the request of at least four members. Moreover, for quorum only seven members present are necessary instead of ten in SFAC and a majority vote will continue to be the decision of the Advisory Council. An additional section in MRA specifies the discretionary power practised by the Council to permit the attendance of any person and participation in discussions with regard to specific interests and matters on the agenda. Such persons are not entitled to vote though. This paragraph has reference for instance to the Ministry’s scientists who often are requested to attend the meeting of the Advisory Council for clarification of the TAC recommendations. In addition scientists engaged by the industry were earlier permitted to present their results for the Advisory Council. This new section defines the status of these non-members of MRAC (MRA, 29(7)) (MFMR, 2000a, pp. 31-32). In order to promote efficiency and transparency the new Act contains clauses of keeping records and establishing procedures for the Advisory Council meetings, as well as those of committee meetings. The Advisory Council may namely from time to time establish committees to perform certain of its functions (MFMR, 2000a). The Minister in his statement of January 2002 in fact reports about the sub-committee of the MRAC, which has begun an in-depth assessment of the economic repercussions of applying a more equitable division of freezer and wet hake quota (Iyambo, 2002).

Terms of Reference for the Working Groups

A Deep Water Fisheries Working Group (DWFWG) was established in 1995 by the Ministry of Fisheries and Marine Resources as a forum for guidance and advice to the authorities on efficient management of the deep-water

³ Information received from Dr. H. Hamukuaya, MFMR, March 2002.

fisheries. The proposed Terms of Reference (ToR) (MFMR, 1998) intended to formalise the role of the DFWWG to ensure its full integration and complementary role to the management of the deep-water species of Namibia. According to the TOR the aims of the working group were to promote rational development of the Namibian deep-water fisheries, assuring that economic and social benefits are optimised and accrue to Namibia. The resources should be utilised to their full potential while safeguarding long-term sustainability of the stocks through proactive research and co-management strategies. Besides permanent members representing both the Ministry, its scientists and the industry, other persons might be co-opted by the DFWWG as consultants. Standing sub-committees would deal with management, research and compliance. The management responsibilities of the working group would include making recommendations on annual TACs based on the outputs from operational management procedures (OMPs) (MFMR, 1998, p. 3). Since recommendations on TACs are the prerogative of the Advisory Council, this transgressed the initial objectives of the working group. In 1999 the Minister therefore suspended the Deep Water Fisheries Working Group as well as the hake working group and others that were in embryo.

In 2000 the Ministry approved *Fisheries Working Groups: Terms of Reference* (MFMR, 2000b), which is a more generalised form of terms of reference designed to accommodate all working groups. While this finally formalised the working groups it should be noted that they are not part of the fisheries management regime and thus not enshrined in the MRA of 2000. In March 2002 there were working groups for orange roughy, hake, horse mackerel, monk and rock lobster. The overall aims as stated in the new Terms of Reference are identical to those referred to the Deep Water Fisheries Working Group of the nineties, namely to promote the rational development of Namibian fisheries and so forth. The objectives are to “develop an appropriate Operational Management Strategy for the optimal and sustainable utilisation of the Namibian Resource based on the results of biological stock assessment and social-economic research” (MFMR, 2000b, p. 1) The following specification under point 5 that the Working Group shall “analyse the socio-economic status of the relevant Fishery to facilitate a better understanding of management options” will satisfy the industry, which has asked for more attention towards socio-economic aspects in fisheries management. This point is well substantiated in the interviews. The main difference refers to point 2 of the Terms of Reference of 2000, that the Working Group shall “*deliberate* on the stock biomass in order to assist MFMR researchers in making recommendations on annual TAC based on outputs from the operational procedures” (MFMR, 2000b, p. 2) instead of *make* recommendations on annual TAC. As stated in the previous document, consensus shall be aimed at

when the Working Group is conducting its business and “the number of representatives from the different Parties will be balanced to maintain a good, open and efficient working environment in the Working Group” (MFMR, 2000b, p. 1). Hence, no doubt the intentions of the Working Group are good.

MAIN ASSOCIATIONS OF NAMIBIA’S FISHING INDUSTRIES

The Namibian Hake Association was founded in 1992 and its objectives are to protect and further the interests of the Namibian hake fishing industry and to provide a forum for collaboration and discussion between members. The Hake Association will also, as and when required, negotiate on behalf of the entire hake fishing industry with all government departments. In addition its aim is to encourage rational fishing by its members following practices that are appropriately concerned about recognised fishery conservation concepts (Fishing Industry Handbook, 2001, p. 197). The Namibia Tuna and Hake Longlining Association was also founded in 1992 with the same purpose as that of the hake association. In particular it co-operates closely with the government to obtain a reasonable share of the quota on migratory and straddling fish stocks appearing in Namibian and international waters (Fishing Industry Handbook, 2001, p. 197). In 1994 holders of Namibian fishing rights for the catching, processing and marketing of products derived from midwater trawling formed the Midwater Trawling Association of Namibia. Its objectives, in addition to serving as a forum for communication, are to actively co-operate at national and international level to achieve optimum sustainable utilisation of the midwater fishing resource (Fishing Industry Handbook, 2001, p. 195). The Namibian Monk and Sole Association dates back to 1996 and is open for all holders of Namibian fishing rights for monk and sole. This association also serves as a forum for communication among members and with government. Optimum sustainable utilisation of the resource is also here the objective reached by participation in local and international projects (Fishing Industry Handbook, 2001, p. 197). The Walvis Bay Pelagic Fishing Companies serves as a forum for the pelagic companies to discuss matters of common concern. In addition to promoting the optimum sustainable utilisation of the sardine resource, the members actively participate in research surveys (Fishing Industry Handbook, 2001, p. 197). Besides these main associations there is the Ad Hoc Committee, which functions as an umbrella body of the fishing industry. While the Committee has no formal structure it is acknowledged by the Ministry and often consulted.

NAMIBIA'S FISHERIES MANAGEMENT REGIME: AN INSTITUTIONAL INTERPRETATION

The characteristics of the resource, the constitutionally decided redistribution of the benefit accrued from the resource and the Government's international obligations in relation to global management are convincing reasons for continued state control of the exploitation of the Namibian fishery resources (Manning, 1998). What can 'new institutionalism' tell us about the choice taken by the Namibian Government at the time of independence? One of the foremost proponents of 'new institutional economics', Douglass North, incorporates institutions in rational choice analysis and constructs a theory of institutions by combining a theory of human behaviour with a transaction cost theory of exchange (North, 1990a). According to North, "institutions consist of informal constraints and formal rules and of their enforcement characteristics. Together they provide the rules of the game of human interaction" (North, 1990b). While North sees institutional change as overwhelmingly incremental, he admits that also discontinuous institutional change indeed may occur in the form of revolution (North, 1990b, p. 397). In the case of Namibia it is easy to equate independence with a revolution where a new government with its base in a black majority 'overthrew' the old white elite supported by and part of an alien occupant. The new government took control of the fisheries resources by creating a fisheries management regime in line with Koeble's (1995, p. 240) formulation: "rational individuals design them (institutions) to help them achieve certain ends". Margaret Levi, also a rational choice institutionalist, concludes her chapter *A Logic of Institutional Change* (Levi, 1990) by recapitulating that the power of institutional decision-makers depends on their capability to barter benefits for compliance and their ability to monitor and coerce the noncompliant. Imperatively is also their capability to derive trust by proving that the bargain is good and persisting. The analysis of the interviews may answer the question whether the representatives of the fishing industry, also rational actors, confirm this bargain.

When studying fisheries management in Namibia, and especially the role of the Ministry of Fisheries and Marine Resources, it is evident how old structures and culture still strongly prevail within the decision-making process. To perceive the causes of this, one may turn to *historical institutionalism*. This version of 'new institutionalism' focuses on common-sense concepts of formal institutions such as legislatures and bureaucracies and the role of ideas in defining institutions (Peters, 1999). Ideas, such as the objective of Namibianisation, are also a major component in fisheries management. In sum, institutions, according to the historical institutionalists, are forming actors' goals and not only their strategies as in rational choice. Moreover

institutions, by arbitrating actors' relations of co-operation and conflict, shape political situations and outcomes (Thelen and Steinmo, 1992).

The fishing industry's quest for more influence in the decision-making process can find its *raison d'être* within the conceptions of participatory democracy. This democracy model emphasises involvement of key stakeholders in contesting and debating planning as well as implementation of public policy. Formal consultative agencies such as deliberation councils might be established to channel the influence of organised interest groups. There is a strong instrumentalist cause for greater participation in macro-economic policy manifested in enhanced legitimacy of the decision-making process, improved rate of return and sustainability of programmes (Robinson, 1998). Thus, in addition to the central institutions of liberal democracy - that is competitive parties, political representatives, periodic elections - *inter alia* interest-group competition in governmental affairs can further the principles of participatory democracy. One of its key features is accountability of party officials to membership (Held, 1997). The fishing industry's representatives in the new Advisory Council are not formally representing any association. However, since they are appointed by the Minister from a list of candidates provided by the Ad Hoc Committee, the industry clearly expects them to be accountable to their respective associations. Departing from the concept of participatory democracy, extensive literature and numerous studies on 'co-management' have been published, especially with regard to fisheries management, among others by Jentoft and McCay (1995) and Hutton (2002). This debate will, however, not be reviewed within the scope of this chapter.

VIEWS EXPRESSED IN THE INTERVIEWS WITH REPRESENTATIVES OF THE FISHING INDUSTRY IN NAMIBIA⁴

Experience with the old Sea Fishery Advisory Council (SFAC)

This theme is of great concern to the industry and gave rise to many comments with regard to the mandate, composition and credibility of the Council. Several respondents point to the fact, that the Council does not have enough power and that the proceedings are confidential. While the SFAC is not transparent and its proceedings are supposed to be confidential they affect the industry. Rumours from SFAC create unstableness in the industry a representative claims. SFAC should be an open forum for industry, scientists and management. Members ought to be Namibian citizens, and politi-

⁴ These views are recounted in the present tense, as expressed in the interviews, to make them authentic.

cians are accepted as long as they are fair-minded and people of standing. The same interviewees also accept that the discussion should be confidential, it is an opinion, an advice, and the Minister should listen to them. SFAC should be a responsible body and consensus reached within the meetings and the recommendations should be acceptable to the Minister. However, the credibility of SFAC is not there, since the advice is not taken. One representative admits that the members of the SFAC often get frustrated, trying to give constructive comments but never knowing if the Minister takes these and forwards them to the cabinet and accordingly the SFAC only functions as a sounding base. This summarises the opinions of several interviewees.

A couple of other respondents, also members of the SFAC, have a more positive attitude to their role in the Council and to their fellow members. One mentions that also politicians from opposition parties sit in the Council, "toeing the line of national interest" and making SFAC much more democratic. Another member stresses that although he is not representing any association but being appointed in his personal capacity, he has proposed that when a member has interest in a question being discussed he cannot vote, and this has been accepted as a principle. With regard to TACs, the SFAC members think it is important and therefore endeavour for joint decision, pulling scientists' recommendations and industry's recommendations together.

Concerning the influence of the unions, the answers are that they have very little input. In general some of them are not well prepared and not bargaining in good faith. Demand for more money is their priority, not the most important, which is housing, according to an experienced member of the SFAC. Over the last three years the industry's Ad Hoc Committee has dealt with special issues as fuel, tuna etc. and given recommendations to SFAC. However, there is not always quorum, causing cancellation of SFAC meetings. You can over-democratise by rules requiring too many people for a quorum. The Council is able to meet, though, when it is necessary to discuss responsible and constructive suggestions.

The request for a democratic representation is the foremost concern according to most interviewees. The main task of SFAC is to be in touch with the industry. The general perception is that SFAC is dominated by the larger companies and appointed by the Minister. To deal with this perception, there should be a quota system: each sector of the industry should be adequately represented, whereas at present there are e.g. only trawling companies and no longliners. Although having one representative in SFAC the rock lobster industry is not content but is going to suggest that there will be two from their industry. Thus, most of the interviewees are of the opinion that the industry should have the right to nominate candidates to SFAC, which ought to truly reflect all sectors of the industry, "we are not satisfied with the pres-

ent set up; the fishing industry looks forward to restructuring of SFAC". The Minister will still decide, but there will be consultations, a democratic process with more representatives nominated by the industry's associations to avoid the Minister's appointment of members, and opening up for the various sectors to formulate their points of view. One member of SFAC recommends that the Minister still should have the right to appoint specialists in certain fields pertaining to fisheries and who are deemed to make a contribution. A proposal is that also other persons coming from broader economic spheres as e.g. Chambers of Commerce should be appointed. Those recommended should be contented and the public would be allowed to participate as observers, with the overall purpose of making SFAC a credible body.

However, there are a few exceptions to the firm view that the various fishery associations should nominate candidates to be appointed members of SFAC. One person argues that if the Minister looks for advice it should be unbiased. Therefore it is not easy to find somebody from an association who could be selected on merits. In SFAC all have vested interests; it would be unrealistic to expect a person to be unbiased and to represent the full interest of e.g. the Hake Association's 25-30 concessionaires. SFAC handles classified information and insight is not open. So far SFAC has not been an independent body; there are conflicting views and hence somebody above interest in the industry should be member. Furthermore, the Minister is not forced to take the advice. Another respondent stresses that associations cannot legitimately claim representation as SFAC is an advisory board to the Minister. Instead different co-operative bodies should be created together with scientists resulting in combined recommendation to SFAC.

Expectations of the new MRAC

At the time of renewed interviews in April-May 2000 the industry was informed that the draft of the new act, the Marine Resources Act, suggested only five members to represent the fishing industry in the new MRAC. Ahead of appointments, consultations would take place with industry as well as with trade unions. According to the drafting officer in the Ministry, the outcome could theoretically be a mix of: 3-2, 4-1 or five persons from the industry or five representing the employees⁵. Nevertheless the industry had been advised to nominate eight persons of whom the Minister would appoint four. These were the conditions and information given and which the industry was going to follow.

The number of persons finally representing the whole industry in the new Council is, however, considered far too small by most of the respondents, one characterising it as 'murder, suicide'. The industry had argued

⁵ Information received from W. Scharm, MFMR, April 2000.

that all the eight nominees should get in. The representation might be given in accordance with the various fisheries' contribution to GDP as hake, horse mackerel, pelagic, monk/sole. This option is, however, not ideal as the small concession owners, longliners e.g. will not be represented. All small sectors of the industry are scared according to one respondent. And how will the interest of the newcomers and the divide between Walvis Bay and Lüderitz be taken care of? The new Council will not be representative enough of fishing industry per se. It is also argued that the orange roughy fishery, being a major troubled industry, might need a representative in MRAC. Spokesmen for this industry are doubtful, though, about chances to get their own delegate in the Council. They argue that the Minister will most likely choose representatives from big capital, the important industries. The nomination process with industry drafting a list of eight candidates out of which the Minister will choose four is not really democratic. The orange roughy industry has expressed its concerns several times and discussed at length with the Permanent Secretary (PS). The appointments according to the new act are not satisfactory, forcing them to rely on another industry to speak on their behalf. Neither has the monk industry so far been represented in the SFAC, and will there be anyone to represent the industry in the new Council, is the question. This spokesman as well is disillusioned about the nomination process, foreseeing that the Minister is going to choose on his own decision and that all is decided beforehand and nothing is going to change. Contrary to this statement, one respondent declares that at the Council people from the industry should be neutral and work in the interest of the whole industry. And the Minister has been quite selective in choosing members. The same attitude was noticed among some of the 'old' members of the SFAC.

Several managers of the hake and pelagic industries are on the other hand more positive to the new procedures. The Hake Association has been extended with a branch in Lüderitz and each branch has its own chairman and vice chairman. The Hake National Committee meets every second month and several respondents express their satisfaction that the company Pescanova, the biggest hake quota recipient, has joined the Association. Constitutional, democratic elections will take place when selecting the nominees of the industry. A formula will be made to let the major sectors of the industry vote for their representatives, and from the list of these candidates the Ad Hoc Committee will send eight names for the Minister to choose four. The Ad Hoc Committee of the fishing industry has no formal constitution but works as an umbrella body and is acknowledged by the Ministry. "We are not far from coming under one roof" and it is also anticipated that in the future only few persons representing the fishing industry in the MRAC will be necessary as more and more companies consolidate. The new system is welcome by the Hake Association and will be a step forward, hav-

ing been pushed by the industry right from the beginning. A representative from the pelagic industry also expresses confidence in the new Council. So far this industry has been well represented in SFAC with as many as four persons. The nomination through the Ad Hoc Committee for the restructured Council will entail two candidates from each sector. Let the Minister do as he wants if it is only fair and as long as the pelagic industry is represented. The four large sectors will have one representative each assures our spokesman, and maybe the Minister will address the other smaller industry.

A general positive comment given by several respondents is the expectation that the appointed members will be representing the industry on an accountability basis, which is welcome. With regard to the status of the new MRAC it depends on the ability of somebody to discuss and talk for the industry. The question is if the Council really has teeth, i.e. whether it affects the decision of the Minister. The MRAC will probably carry more weight and will be a change for the better in comparison with the old SFAC, which was a 'non event' according to one critical voice.

Raison d'être of working Groups⁶

What is needed is that both the Ministry and the industry take responsibility at Working Group levels, one respondent stresses, claiming that this is the view of the higher officials in the Ministry. For each fishery sector one should operate through a working group. The Deep Water Fisheries Working Group (DWFWG) is a test case. It is nice being in a small group, being accountable to each other. The industry now pulls together scientists of their own in the DWFWG and the Ministry's scientists have to justify the acoustic survey. A good co-ordinator of the WG is necessary and both sides should take 'ownership' of decisions made, which is possible with more frequent meetings of working groups. In order to take away as much of the uncertainty as possible, consensus should be reached in the WG. There is still disagreement regarding documents and recommendations, but at the end of the day one reaches consensus⁷. The top management in the Ministry wishes a united document to be presented to the SFAC. Bio/economic data would be needed and added to the agenda of the DWFWG and it should allow an element of flexibility, e.g. regarding over-catch: let's manage it ourselves. The structure is so rigid, companies go under with over-catch fees, and orange

⁶ The following views were expressed in the years 1997-98 referring particularly to DWFWG, which was the pilot working group. While speaking of the management responsibilities of DWFWG the respondents seem to take for granted that the mandate also included recommendation on TACs. In fact this objective was part of the proposed first Terms of Reference (TOR) of 1998 as discussed above.

⁷ Since 2000 consensus has not been reached (Boyer and Oelofsen, this volume).

roughly are often caught together with alfonso. Now industry and Ministry are working together, starting to understand each other better - as a team to work up a database. Yet another representative from the deep water fisheries is expressing his content with the working group as a means to co-operate better, a way to go. The Ministry considers the DFWWG as a test for managing the resource in a responsible way. The DFWWG, however, is not formalised, but functions inside the Ministry with scientists and industry. The working group is too new, it is all an experiment and there are only three companies and two more as observers. With few companies it is easier to work than in comparison with e.g. the hake industry. Socio-economic questions are included in the mandate of the working group. The aim is to make recommendations to the Ministry with regard to three aspects: 1. research, 2. management i.e. TAC, and 3. compliance. In addition to suggesting policies and advice to the Ministry and to the SFAC, the idea behind working groups is simple according to this respondent: the Ministry is tired of the conflict between the industry and the scientists, therefore the establishment of working groups has come through with the address: "try to solve the issue between you". It is now up to everyone if it will work, if players are willing. A working group is a less formal body and we in the industry want the working group to work.

The industry has no say in directing government resources but contributes to 10 per cent of GDP and NatMIRC say that they do not have resources, a representative of the hake industry claims. This industry wants an input in a working group as DFWWG, which the industry has requested for a couple of years. Our spokesman totally supports co-operation in actual research. Another respondent says that the hake industry is pushing for a new meeting with the hake working group provided it is not toothless as the working group for orange roughy, a 'family shop', is the comment by a representative from this industry. The ultimate goal is to set targets on an annual basis, not provisional and to give industry the feeling of participation. In the past there was no relations, it was a one-side affair, the industry was just told; now the industry and the scientists sit together and the industry believes it makes a contribution to the utilisation and preservation of the resources on a sustainable basis.

Working groups are a wonderful exercise, another respondent asserts, but they should be given a better, proper and legitimate status. They are breaking new ground, hopefully eliminating mistrust. It would also be easier for the Minister to be faced with more realistic issues as socio-economic and national concerns. An almost euphoric statement comes from a nestor in the industry foreseeing the birth of a new era in Namibian scientific research and a lot of scope for mutual co-operation and peaceful fisheries coexistence in the management of Namibian fishing resources. Co-operation is the solu-

tion and Namibia could be an example for the rest of the world. A bold statement comes from another respondent questioning the necessity of SFAC if working groups are established and consensus on TAC arrived at. It is doubted that SFAC would 'shoot down' an agreement reached by scientists and industry. Working groups are useful to sort out day-to-day problems, but scientists of international standing should be selected to form a panel for final decision. This is necessary says the spokesman as fishing is not a marginal industry and its future important for the Namibian economy. Representatives of the monk, rock lobster industries and the longliners especially would welcome to have their own working groups involving a collective, joint effort not least in practical research.

At the renewed interviews in 2000 many of the same arguments were presented but certainly with more weight after another couple of years of experience. A representative of the horse mackerel industry points to the high TAC for several years as a reason why there has been no need for the industry to disagree and argue with the scientists. However, this is the best time to start a working group our spokesman stresses. There is a need for a forum to be called in when it is a crisis, insist representatives of the hake industry. In addition it is important that working groups function for responsible discussions with scientists of common interests and to sort out problems on a lower level. Working groups are also a place for socio-economic questions for which information is lacking. As regards the pelagic industry there has not been any working group, just a sardine-pelagic workshop in 1997. Nothing actually came out of it as the recommendations were not implemented one respondent declares. With no fish the industry is not pushing for a working group at this particular time but awaiting the initiative of the Ministry. Representatives of the orange roughy industry are all convinced of the benefit of having a joint forum in the form of a working group. They are confident that the DFWWG will be established again as a permanent body with periodic meetings, every two to three months. The terms of reference have been redrafted and the new working group will have two aims: recommend research for management and consider socio-economic aspects, which in the future will carry more weight when resources are short. The feeling of responsibility is also strong within the industry, which is willing to continue to assist Ministry's scientists by spending resources on research. They have a duty to lead the process, one respondent claims.

Communication with the Ministry

The relations and communications between the industry and Ministry of Fisheries are carried out through several channels and the experiences are both negative and positive. Many complain about lack of regular contacts with Ministry, which only occur on an ad hoc basis. The industry almost has

to force itself in and the communication with the scientists is not enough. The Minister came to Walvis Bay and he wants to co-operate but the officials in the Ministry are not carrying it out. An example given refers to the change of quota year, a decision taken by the Management Committee in Windhoek alone. The Ministry and the industry must work as a team, the respondent stresses. The biggest stumbling block over the years is lack of trust and confidence between the Ministry and the industry. The respondent admits that they have improved, moved ahead, but there is still a lot of ground to be covered. The same representative also complains that issuing of licences and other paperwork takes time with the Ministry. Communication should certainly be better.

Among those referring to positive contacts some say that officials at all levels in the Ministry are available and that there are no problems with communication. Depending on the question, the contacts go through the associations when it is general and direct to the Ministry or the Minister when it is company related. Some industries have a direct line to the Minister through their chairman, particularly when there is a need for more contacts in the establishment phase or the special profile of an industry is making it a showcase. There have been no secret doors, a respondent assures. When having problems one company does not go through their association but straight to the Minister of Finance or to politicians. Previously they had contacts on a regular basis with the Prime Minister and the President, but it is not a personal relationship. Another representative states that the company has a good communication with the Permanent Secretary and down at administrative levels, but declares that he does not like to talk specifically with the Minister but sees the President very often, admitting that "it is a question of style." There are certain managers who have frequent informal contacts with the Permanent Secretary, as much as twice a week according to one representative who assures that he himself sees the PS only twice a year. This same spokesman appreciates the present incumbent who permits an intellectual level of discussion. In contrast another respondent declares that after the shift of Permanent Secretary and the administrator dealing with the industry, relations with the Ministry have improved immensely. Earlier the industry was met with a dictatorial type of attitude, a typical South African attitude. The new staff and not least the Minister stand for an open door policy. One respondent would like to see a representative from the Ministry at the monthly meeting of the Hake Association where matters dealt with are not that confidential. A radical suggestion put forward is that more functions should be moved to Walvis Bay – also the Maritime Affairs, which goes hand in hand with the fisheries. As it is, the authorities sit in Windhoek and they do not know about seagoing problems. Our spokesman recommends: leave the Permanent Secretary and the Minister in Windhoek and move the direc-

torates to Walvis Bay. Windhoek is isolated from the industry and if in Walvis Bay there would be daily contact. In a similar vein comes the suggestion of establishing regional advisory councils under chairmanship of the Prime Minister. Such councils could be of advantage for SFAC since the executives in Windhoek do not understand what is happening at the coast. However, in Namibia people feel uncomfortable with decentralisation, our proposer reckons.

DISCUSSION AND CONCLUDING REMARKS

North's (1990b) definition of institutions as consisting of informal constraints, formal rules and of their enforcement characteristics is indeed a valid description of Namibia's fishery management regime as an overarching institution. The two first characteristics have been exposed in this chapter while the monitoring, control and surveillance components of the regime are not the subject of this review. Levi (1990) stresses that revenue maximisation is the main goal of any rational government. Also in the case of Namibia the objective of utilisation of the fishery resource on a sustainable basis is the prerequisite for rent maximisation in this sector⁸. In accordance with Levi's (1990) prescription for successful decision-makers, the Ministry of Fisheries and Marine Resources barter benefits, *id est* fishing rights and individual non-transferable quotas for compliance by the industry. Further, the Ministry indeed has the capacity to monitor and coerce the noncompliant (Bergh and Davies, this volume). The government, acknowledging its dependence on private capital for the development of the sector, created institutions of consultation and co-operation with the industry. Thus, within the model of state control of the exploitation of the marine resources, these institutions the Sea Fishery Advisory Council/Marine Resources Advisory Council and the working groups are established. The purpose is to involve the industry and get advice in matters of concern to the fisheries. As stated by an officer in the Ministry the working groups are fora for building trust and a feeling of ownership of research. Or in Levi's words: a means to derive trust by proving that the bargain is good and persisting.

However, in the interviews the respondents express general dissatisfaction with the institutional arrangements for their participation in the decision-making process. This relates especially to their experiences with the Sea Fishery Advisory Council, and several managers question whether their advice is at all taken into account. Further, the lack of transparency causes ru-

⁸ This goal is, however, weighed against the objectives of Namibianisation and job creation, constituting the social rent from the exploitation of the fisheries resources.

mours and the appointed members from the industry are accused of only looking after their own interests. Yet, a few companies feel well represented in the Council and it is evident that those interviewees who themselves have been appointed as members to the Advisory Council are much more positive. Such statements correspond with the notion of participatory democracy emphasising the instrumentalist cause for stakeholders' involvement in consultative agencies. The effect is improved legitimacy of the decision-making process and sustainability and support for programmes. The establishment of the new Marine Resources Advisory Council gives rise to expectations of better representation and influence of the various sectors of the industry, at least for the four main ones with highest contribution to the GDP. In the end the smaller sectors have to rely on them as spokesmen. The interviewees voice quite some pride when explaining the nomination procedure of representatives from the various sectors and then the final choice to be taken by the industry's Ad Hoc Committee. It is also stressed that in the future the representatives are expected to be accountable to their respective associations. Thus, the change in rules from the old SFAC to MRAC will in fact promote participatory democracy through the nomination process, and accountability, an important pillar of participatory democracy, will also be fostered. In addition, the statute requesting that records should be taken at the meetings of the Marine Resources Advisory Council will promote democracy and hopefully prevent rumours. It is pertinent to point out though, that the fishing industry only nominates their candidates and the Minister chooses them. The quest for more democracy is obvious, both within the respondents' own organisations and in relation to the state, here the Ministry of Fisheries and Marine Resources. This pursuit is first of all expressed in the request for participation in working groups. As one respondent explains, working groups are important for responsible discussions with scientists and for sorting out problems on a lower level (also pointed out by Boyer and Oelofsen, this volume). Such a statement is in line with the postulate of historical institutionalism, i.e. that institutions, by arbitrating actors' relations of cooperation and conflict, shape political situations and outcomes. A similar criterion could possibly also be applied to the SFAC and MRAC. Although the working groups are not statutory bodies according to the new Act, the revival of them seems to work to the satisfaction of the industry. It should be noted, however, that as in most of the world's main fishing nations with long-standing established consultative institutions, the Minister has the final say in fisheries management. In relation to the general weakness of the civil society and lack of strong parliamentary opposition in Namibia (Diener and Graefe, 2001) the fisheries industry, being an interest group, is emerging as a strong partner to the Government within the established institutions for consultation. This is in contrast to most other interest groups, where struc-

tures and connections linking them to the state are not formal and obvious (Diener and Graefe, 2001). It is foreseen that in a not too distant future, the various associations of the fishing industry will have come under one roof in Walvis Bay and will speak with one voice⁹. The Minister in his Annual Statement 2002 in fact called for a cohesive voice from the Hake Association in connection with a management question (Iyambo, 2002).

Nevertheless, the industry representatives complain about lack of communication with the Ministry. They regret not being more involved, consulted and informed by the Ministry and NatMIRC about new plans, changes in management, evaluations, etc. Their opinions are incompatible with the statement of the Minister, Dr. Iyambo, as referred to in this introduction. He says that the Ministry "habitually consults extensively with the industry on certain matters before action is taken to adjust any aspect of policy".

The respondents find that the structures are so rigid and often inefficient and it takes such a long time to get a response. Some even feel maltreated, slapped as a naughty boy. Again historical institutionalism by stressing ideas, in this case control, may explain the continued dictatorial approach that members of the fishing industry have perceived in their contacts with the Ministry. The bureaucracy of the Ministry of Fisheries, at independence consisting of the old guard of civil servants, who in accordance with the new Constitution retained their posts and privileges, has held on to many of the features characterising the colonial power (Melber, 2000). Centralisation and control still to a great extent prevail not only towards the industry, its clients, but also within the Ministry itself. As an example the post of the Permanent Secretary (PS) implies great discretionary powers, in contrast to that of comparable posts in for instance Scandinavian public administrations. The personal contacts that the representatives of the industry keep with officials in the Ministry, or even with the President, is a facet of the neo-patrimonial state. Another example is the habit noticed that the managers of the fishing companies themselves turn up, well dressed, at the Ministry to deliver their annual quota application, not to the Minister or the Permanent Secretary but to the officer in charge of registration. Historical institutionalists will certainly also agree with Gretchen Bauer (1999) in tracing this authoritarianism not only to the legacy of hundred years of colonial rule but as well to the bequest of the exiled liberation movement.

This chapter has presented industry respondents' opinions and perceptions of their experiences and expectations for participation in the institutions of consultation. As pointed out above, the interviews were made in 1997-98 and again in 2000, at a time when the first phase of the experiment

⁹ Comment by L.Clark, MFMR, May 2000.

with working groups was discontinued. From the industry's perspective the ideal objective was obviously co-management of the resources, as indicated in the first proposed terms of reference (TOR) of the DFWFG. However, neither the working groups nor their mandate was formally approved by the Minister when the interviews took place. The cardinal mistake made by the DFWFG was clearly the recommendations for TACs, a prerogative of the Advisory Council at that time as well as under the new act (MRA 2000). Evidently a number of the opinions of the respondents are mirroring misconceptions and lack of understanding of the management system applied, but it has not been the task of this review to judge and point out what is correct or false in their statements. Boyer and Oelofsen discuss this problem, in particular with regard to the sardine industry, in their contribution to this book.

However, with the restoration of the working groups it is presumed that some of the frustrations among the interviewees have eased and greater transparency and co-operation will develop between the Ministry, its scientists and the industry. Although not explicitly referred to above, the representatives of the industry communicated their general acceptance and even support of the objectives of Namibia's fishery policy. As rational actors they accept the 'bargain', which no doubt is a profitable one and it is a fair conclusion that fisheries management in Namibia has largely worked according to the intentions. The institutions, SFA/MRA, SFAC/MRAC, the Ministry of Fisheries and Marine Resources and NatMIRC are indeed created to fulfil the objectives laid down in the Constitution, thus the state as a rational actor has designed the institutions to achieve its ends.

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