DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

POLICY ON THE ALLOCATION AND MANAGEMENT OF SMALL PELAGIC COMMERCIAL FISHING RIGHTS: 2021

THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE ALLOCATION OF COMMERCIAL FISHING RIGHTS: 2021 AND THE POLICY FOR THE TRANSFER OF COMMERCIAL FISHING RIGHTS

(Available at www.environment.gov.za)

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1. INTRODUCTION

This Policy on the Allocation and Management of Commercial Fishing Rights in the Small Pelagic Sector for directed anchovy and sardine is issued by the Minister of Forestry, Fisheries and the Environment (the Minister). This policy must be read together with the General Policy on the Allocation of Commercial Fishing Rights: 2021 (the General Fisheries Policy) and the Policy for the Transfer of Commercial Fishing Rights.

This policy sets out the objectives, criteria and considerations that will guide the allocation of long-term commercial Small Pelagic fishing rights.

The Minister has, in terms of Section 79 of the Marine Living Resources Act 18 of 1998 (the MLRA), delegated the power to grant fishing rights contained in Section 18 of the MLRA, to Senior Officials of the Department of Forestry, Fisheries and the Environment (the Department). This policy document will guide the Delegated Authority in taking decisions on applications in this sector.

2. SECTOR PROFILE

The South African fishery for small pelagic fishes is an industrial-scale fishery that was initiated off the West Coast in the late 1940s using purse-seine nets to target adult sardine (*Sardinops sagax*), horse mackerel (*Trachurus capensis*) and chub mackerel (*Scomber japonicus*). Declining catches of these species during the mid-1960s resulted in the fishery switching to smaller meshed nets to target juvenile anchovy (*Engraulis encrasicolus*) off the West Coast, and this species has largely dominated landings since. A third small pelagic fish, West Coast red eye (*Etrumeus whiteheadi*; also known as round herring) has also been targeted since the 1970s. Because both sardine and round herring juveniles form mixed schools with anchovy juveniles, the former two species are taken as bycatch in anchovy fishing operations.

Small quantities of the two mackerel species are currently taken as bycatch in this sector, but these are negligible compared to initial high catches. Whereas sardine catches remained low for three decades after they declined, the population recovered during the 1990s and the fishery began to also target this species off the South Coast. Sardine catches increased to a second peak in the mid-2000s, before declining again to very low levels in recent years. Mesopelagic fish species (Hector's lanternfish *Lampanyctodes* *hectoris* and lightfish *Maurolicus walvisensis)* are occasionally caught by purse-seiners, sometimes in large quantities.

The Small Pelagic sector is South Africa's largest in terms of catch with average annual catches of around 380 000 tonnes over the period 1950–2020, of which 80% has been anchovy and sardine (directed and bycatch combined). Small pelagic targeting occurs inshore, primarily along the Western Cape's west and south coasts (for anchovy, directed-sardine and red eye) and the South and Eastern Cape coast (for directed-sardine). Sardine are also targeted by a seasonal beach-seine fishery along the KwaZulu-Natal south coast during the annual, winter sardine run, but annual catches in that fishery are small (typically around 200 tonnes and have never exceeded 700 tonnes) in comparison to those taken by purse-seine vessels. The pelagic fleet consists of Glass Reinforced Plastic (GRP) and steel-hulled purse-seine vessels, with only a few wooden vessels remaining active. Vessel length ranges from 15 metres to 39 metres, and the number of vessels actively involved in the sector has consistently declined from 95 in 2006 to 63 in 2020. Sardines are canned for human consumption and pet food, and packed and frozen for bait, with most of the canneries on the West Coast and most of the bait packing facilities on the South and East coasts. The other species (so-called "industrial fish") are reduced to fishmeal, fish oil and fish paste in large factories mostly on the West Coast but with a recently-developed factory on the South Coast. This difference in product type means that one tonne of canned sardine is around 5 times as valuable as one tonne of industrial fish.

Annual anchovy catches ranged between 79 000 tonnes and 307 000 tonnes and had an average value of 214 000 tonnes over the previous rights period of 2006-2020. Annual directed-sardine catches ranged between 2 000 tonnes (in 2019) and 206 000 tonnes (in 2006) and had an average value of 79 000 tonnes over that period but have declined markedly to below 35 000 tonnes in recent years. The current low sardine catches are insufficient for profitable operation of the major canning facilities and the bulk of canned sardine products currently produced in South Africa contain sardine that are sourced from Morocco and elsewhere. Whilst this has enabled the industry to retain market share and to keep their workers employed, current unfavourable exchange rates are affecting profitability and threatening the long-term viability of the canning industry, particularly if directed sardine catches remain at low levels.

The Small Pelagic sector is typically managed through an Operational Management Procedure (OMP); an adaptive management approach that uses a simulation-tested set of rules and pre-specified data, stock assessment methods and harvest control rules to determine and implement management actions. In this sector, management is via the setting of annual Total Allowable Catches (TACs) for sardine and anchovy, and Total Allowable Bycatches (TABs) for juvenile sardine caught in anchovy-directed fishing, and juvenile and adult sardine caught in redeye-directed fishing. However, should input data used for the calculation of TACs and TABs fall outside of the range that was used in simulation-testing of the OMP, Exceptional Circumstances (ECs) are declared and the OMP is not used for setting TACs and TABs and *ad hoc* measures are used instead. Exceptional Circumstances were declared for sardine in 2019 after recording a sardine biomass estimate in 2018 which was below the simulated range, and these ECs have remained since (i.e. during 2020 and 2021) following continued low biomass levels. Exceptional Circumstances were also declared for anchovy in 2020 following lower-than-simulated recruitment, and *ad-hoc* measures have been used to set TACs for this species since. In addition to the TACs and TABs, annual Precautionary Upper Catch Limits (PUCLs) are set for West Coast redeye, mesopelagic fishes, and juvenile horse mackerel bycatch.

Spatial management has been formally applied in the sardine fishery from 2019 onwards as a regulatory measure.by restricting the proportion of the directed-sardine TAC that can be caught off the West Coast. This is because (i) the sardine resource is considered to consist of two components, one off the West and the other off the South Coast, respectively, with the western component markedly more productive in terms of generating recruitment; and (ii) the need to rebuild the sardine population in general, but particularly the western component which is depleted at present.

In addition to being the largest of South Africa’s fisheries (despite recent low sardine catches), the Small Pelagic sector is the country’s second-most important in terms of value, with an estimated wholesale catch value of R2.4 billion in 2014 that is estimated to be around R5.5 billion at present. This sector employs approximately 5800 people. Of these, 4300 are employed on a permanent basis and 1500 on a seasonal basis. Ninety-five percent of workers in this sector are historically disadvantaged persons. The market value of the 63 vessels operating in this sector is more than R1.2 billion (the average vessel is worth R 7 million). The sector is capital intensive, with operators having to invest in vessels and processing and marketing infrastructure, hence it is not suitable for the Small-Scale Fishery sector. Sixty-four (64) out of 85 (75%) previous Rights Holders (RHs) did not own vessels, hence a proportion of the catch was caught and processed using agreements with independent entities who themselves did not have a Right. Twenty-one out of 85 (25%) previous RHs were also vessel owners. Nineteen of the 63 (30%) active vessels in 2020 were owned by entities which were not RHs in the sector.

In 2020 there were 22 Permitted Fish Processing Establishments (FPEs) associated with the Small Pelagic sector. Of these, five are large, combined fishmeal and canning plants that were owned by previous RHs and one is a cannery only plant not owned by a previous RH. A new fishmeal plant has since been added to the cannery-only plant in Mossel Bay on the South Coast, with current processing capacity of 100 tonnes per day, that is estimated to increase to around 1 000 tonnes per day within the next two to three years. The remaining FPEs are mostly small cold storage facilities that mainly freeze sardine for bait and human consumption, with eight (36%) not owned by previous RHs. At the end of the previous Rights period (2020), 79% of RHs in this sector were black-owned and they collectively controlled 75% of the TAC. Women made up an average of 29% of the shareholding of, and small and medium-sized enterprises made up 85%, of the previous RHs.

3. THE LONG-TERM FISHING RIGHTS ALLOCATION PROCESS

At the end of 2005 and subsequent to all appeals being finalized, the Small Pelagic long-term rights period effectively started on 1 February 2006 and ended on 31 December 2020. An exemption was granted to previous RHs to continue fishing from 1 January 2021 to 31 December 2021. Of the 115 Long-term Rights that were granted in 2005, 76 RHs were granted rights to both sardine and anchovy and 39 were granted Rights to sardine only. By the end of 2020, Rights had been consolidated to 61 holders of both sardine and anchovy rights and 24 holders of sardine rights only.

4. OVER-ARCHING SECTORAL OBJECTIVES

This policy recognises the need to ensure the optimal, long-term and justifiable use of marine living resources in order to ensure sustainable development of the fishing sector to achieve inclusive economic growth, to achieve the objectives and principles as listed in

Section 2 of the MRLA through the Marine Living Resources Fund (MLRF) and to create sustainable employment consistent with the development objectives of National Government. In terms of the Marine Living Resources Act, 1998, the responsible authorities are obliged to achieve optimum utilisation and ecological sustainable development of marine living resources; conserve marine living resources for both present and future generations; apply precautionary approaches in respect of the management and development of marine resources; utilise marine living resources to achieve economic growth, human resource development, capacity building within fisheries and mariculture sectors, employment creation and a sound ecological balance consistent with the development objectives of the national government; protect the ecosystem as a whole, including species which are not targeted for exploitation; preserve marine biodiversity, and to minimise marine pollution.

The over-arching objectives of allocating long-term fishing rights in this sector are to:

(a) Rebuild the currently depleted sardine resource, in particular the western component.

(b) Create an environment that attracts investment and stimulates job creation.

(c) Encourage RHs to invest in suitable vessels; processing and marketing infrastructure.

(d) Encourage value-adding by RHs through processing some percentage of their industrial fish allocation, i.e., anchovy and round herring, into products other than fishmeal or fish oil (e.g., bait) but preferably for human consumption. The Department also encourages the development of new sardine products for human consumption. Progress in this regard will be determined during regular performance assessments.

(e) Maintain the current level (~80%) of Black ownership and improve other aspects of the transformation profile specifically the involvement of females, youth and people living with disabilities.

(f) Reduce bycatches of sardine, horse mackerel and chub mackerel.

(g) Ensure strict adherence to Environmental Legislation dealing with wastage and pollution (e.g., both air and water effluent).

(h) Promote viability and environmental sustainability of the sector through an efficient rights Allocation Process.

(i) Promote adherence to the Basic Conditions of Employment Act 75 of 1995, the Labour Relations Act 66 of 1995 and the Merchant Shipping Act 57 of 1951.

5. GRANTING OF FISHING RIGHTS

Fishing rights are granted in terms of section 18 of the MLRA. Only South African persons as defined in the MRLA shall acquire or hold rights. All Rights granted shall be valid from the date of allocation for a period of 15 years, whereafter they will automatically terminate and revert back to the State.

5.1. Form of Right Holder

Having regard to the capital-intensive nature of fishing and processing operations in this sector and resource accessibility, only the following South African persons will be considered for a right in the Small Pelagic sector:

(a) Close Corporations (legal entity).

(b) Companies (legal entity).

5.2. Duration of Rights

Having regard to the rights allocation process, and the need to encourage investment, fishing rights in the Small Pelagic sector will be granted for the maximum period of 15 years.

5.3. Transfer of rights allocated in terms of this policy

In terms of Section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the fishery in terms of the MLRA shall not be transferred within the first three (3) years of being granted.

6. EVALUATION CRITERIA

Applications will be screened in terms of a set of “exclusionary criteria” to identify those that merit the granting of a commercial right, and thereafter assessed in terms of a weighted set of “comparative balancing criteria”. The purpose of the balancing criteria is to identify successful applicants. All applicants will be required to show that they have the knowledge, skill and capacity to fish for and process/market small pelagic species as well as to demonstrate commitment to investing in this sector.

6.1. Exclusionary Criteria

Apart from the criteria described in the General Fisheries Policy pertaining to the lodgement of the applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements:

(a) **Compliance***:* An applicant will be excluded if it or any of its Directors, Senior Management, Shareholders or Members (where such shareholding or members' interest exceeds 10%) or Skippers have been convicted of a transgression of the MLRA, the regulations promulgated thereunder and permit conditions (without the option of the payment of a fine).

An applicant will also be excluded if it, or any of its Directors, Senior Management, Shareholders or Members (where such shareholding or members' interest exceeds 10%) or Skippers has had any fishing right cancelled or revoked in terms of the MLRA.

(a) **Paper Quotas***:* Applicants who apply under FRAP 2021 for a Small Pelagic fishing right, and who are found to present a paper quota risk, as defined in the General Fisheries Policy of 2021, will be excluded.

(b) **Fronting**: Applicants who apply under FRAP 2021 for a Small Pelagic fishing right, and who are found to present a fronting risk, as defined in the General Fisheries Policy: 2021, will be excluded.

It shall, however, be noted that although excluded applicants will not be allocated a commercial fishing right in this sector, they will be evaluated and assessed against the balancing criteria. This will be done for the purposes of generating scoresheets for such excluded applicants.

6.2. Comparative Balancing Criteria

Applications that have not been excluded will be categorized as per the General Policy: Those applicants who held rights in the fishery for which they are re-applying during the period 2006 to 2020 may be considered to be Category A Applicants. Applicants who held rights in sectors other than the fishery they are applying for during the period 2006 to 2020 may be considered to be Category B Applicants. Applicants who did not hold commercial fishing rights during the period 2006 to 2020 may be considered to be Category C Applicants. The third category is also referred to as “new entrant” applicants.

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General Fisheries Policy for further detail. Weighting and scoring criteria will be developed separately for Category A, B and C applicants during the assessment of applications, and the relative weight of each criterion will differ between Categories.

For all Categories, investment in the sector and access to infrastructure will be heavily weighted, with job creation and sustainable employment, value adding and enterprise development, transformation and performance also important. A like-with-like approach will be followed for Category A, whereby applications will be compared against those from applicants that had allocations of a similar size for one or both of anchovy and sardine and similar fishing operations/areas. A similar approach will be followed for Category B applications, which will also be required to demonstrate their ability to establish themselves in this sector. New entrants (Category C) will have to show that they have the knowledge, skill and capacity to fish for, or process or market small pelagic species as well as demonstrate their commitment to invest in this sector within the medium term.

(a) Investment in the Sector (Applies to Category A, B and C applicants)

As far as Category A applicants are concerned, the Delegated Authority should specifically consider:

(i) Investments in suitable vessels and/or other fixed assets such as processing/marketing infrastructure in the Small Pelagic sector (and, in other sectors, if applicable, but this will be given less weighting) during the past 15 years. Investment in the form of shareholding will also be considered.

(ii) As far as Category B and C Applicants are concerned, the Delegated Authority should consider investments made in other sectors in the form of vessels and/or other fixed assets such as processing/marketing infrastructure, but a clear demonstration of their commitment (and ability) to invest in this sector (i.e., vessels and FPE’s) will be required.

(iii) All Category C applicants are required to demonstrate that they have the knowledge, skill and capacity to fish for and process/market small pelagic fish as well as demonstrate commitment to investing in this sector in the medium term.

(iv) The Department recognises the Economic Unit Business model and that entities belonging to such Units might not necessarily present a Paper Quota risk. The extent to which an applicant has contributed to the Unit will be considered.

(b) Access to Infrastructure (Applies to Category A, B and C applicants)

(i) Access to a Suitable Vessel: Applicants will have to demonstrate access to a suitable vessel. Proof in the form of ownership, part-ownership or catch agreement, together with a valid South African Maritime Safety Authority (SAMSA) registration certificate and photos of the vessel taken from the port and starboard, fore and aft needs to be included in the application. If the applicant has entered into a purchase agreement to acquire a suitable vessel on successful application, then proof of the sales contract must be provided. In the case of a proposed newly-built vessel, the vessel plans, detailed costing from the vessel building company and proof of finance must be provided.

(ii) Access to a Fish Processing Establishment: Applicants are required to demonstrate access to a Fish Processing Establishment. Proof in the form of ownership, part-ownership or processing or purchase/lease agreements needs to be included in the application for each of the species applied for. If the applicant has entered into a purchase/lease agreement to acquire a suitable fish processing establishment on successful application, then proof of the sales/lease contract must be provided. In the case of a proposed newly- built fish processing establishment, the establishment plans, detailed costing from the establishment building company and proof of finance must be provided.

(c) Job Creation and Sustainable Employment

The Small Pelagic sector provides approximately 5 800 jobs. The majority of workers are employed on a full-time basis, with benefits such as medical aid, pension and shareholding as well as informal financial support (e.g., personal loans and funeral insurance).

For Category A Applicants, sustainable employment provided as a result of the previous allocation of long-term fishing rights will be considered, and in particular, applicants that have created jobs and provided their employees with:

(i) Sustainable employment adhering to the requirements of the Basic Conditions of the Employment Act, Labour Relations Act and Merchant Shipping Act.
(ii) Medical aid, pension, shareholding, informal financial support.
(iii) Safe working conditions.

In addition, jobs created and sustainable employment provided per tonne of fish allocated during the previous long-term rights allocation period will be assessed and taken into account.

For Category B Applicants, jobs created and sustainable employment provided as a result of the previous allocation of long-term fishing rights in another sector will be considered, and in particular, applicants that have provided their employees with:

(i) Sustainable employment adhering to the requirements of the Basic Conditions of Employment Act, Labour Relations Act and Merchant Shipping Act.
(ii) Medical aid, pension, shareholding, informal financial support.
(iii) Safe working conditions.

For Category C Applicants, jobs created and sustainable employment provided as a result of any previous fishery related activity will be considered and in particular, applicants that have provided their employees with:

(i) Sustainable employment adhering to the requirements of the Basic Conditions of Employment Act, Labour Relations Act and Merchant Shipping Act.
(ii) Medical aid, pension, shareholding, informal financial support.
(iii) Safe working conditions.

(d) Local Economic Development (Applies to Category A, B and C applicants)

There is a need for investment and decent sustainable employment creation in many of South Africa's smaller coastal towns. The Delegated Authority may reward applicants who commit to supplying/selling small quantities of good quality anchovy, sardine or red eye to SMMEs in smaller coastal towns, particularly economically depressed areas, for development of products for human consumption. The Delegated Authority may also consider the area of operation of applicants and their potential contribution to local economies.

(e) Value-adding and Enterprise Development (Applies to Category A, B and C Applicants)

For Category A applicants, the Delegated Authority should consider past enterprise development and their ability to add value to small pelagic fish products for local and international markets during the past 15 years. The Delegated Authority will consider, in particular, whether applicants have invested in or facilitated, directly or indirectly, the development of products for human consumption of anchovy, sardine (other than traditional canned) and red eye.

(f) Transformation (Applies to Category A, B and C applicants)

The objective of allocating long-term fishing rights in this sector is to maintain or improve the transformation profile (specifically the involvement of females, youth and people living with disabilities) and the transformation objectives are applicable to all aspects of the applicant's business. In addition to criteria as stipulated in the General Fisheries Policy, applicants will be assessed and scored on:

(i) The percentage women ownership and women representation at top salary, board of directors and senior official and management levels.

(ii) The percentage of disabled persons and youth ownership and representation at top salary, board of directors and senior official and management levels.

(iii) Whether employees (other than top salary earners) benefit from an employee share scheme.

(iv) Compliance with the Employment Equity Act 55 of 1998, particularly with regards to the representation of women, people living with disabilities and the youth at the various levels of employment below senior official and management level.

(v) For Category A and B applicants, the degree of present (2020) transformation levels will be compared to historical levels to identify applicants who have significantly increased their black ownership over the previous long-term rights period.

(g) Performance (applies to Category A applicants)

(i) Performance by Category A applicants will be determined from their catch statistics and assessed in terms of the quanta allocated (achieved catch per allocated catch in tonnes; jobs per tonnes, etc). The performance of applicants will be compared relative to the industry average within regions (i.e., previous rights holders on the south coast will not be compared to those on the west coast) per allocated species for the previous allocation period.

(ii) Category A applicants who did not exercise their rights (i.e., no reported catches) in any given year during the previous allocation period must demonstrate reasons and provide evidence why they could not do so. Failure to do so will result in their performance being scored negatively.

All applicants must indicate whether and how they intend to develop a percentage of their allocations of industrial fish for alternative uses, preferably for human consumption. The Delegated Authority will favourably consider applications that demonstrate commitment to such development.

(h) Multi-sector Involvement

Applicants in the Small Pelagic sector are not precluded from holding rights in any other sector/s. Given the inherent variability in population sizes of Small Pelagic fishes, the Department cannot guarantee that allocations will not drop below levels that are economically meaningful and hence encourages multi-sector involvement to spread risk across several sectors.

(i) Non-payment of Fish Levies (Applies to Category A and B applicants)

The Department requires every RH to pay a levy on all fish landed, targeted or caught as a bycatch. Applicants that were granted commercial fishing rights in the previous rights allocation period for this or any other sector are required to provide proof that they are up to date on the payment of their levies on fish landed over the last fifteen years at the date of submitting their applications. Those that have under-reported catches to, *inter alia*, avoid the payment of levies, will not be considered further.

(j) Compliance (Applies to Category A, B and C applicants)

If the applicant, or any of its Directors, , Senior Management, Shareholders or Members interest (where such shareholding or members interest exceeds 10%) or Skippers have paid admission of guilt fines for contraventions of the MLRA, it's Regulations or permit conditions within the last fifteen years, their application may be penalised. Applicants who fail to disclose this information in their application will not be allocated a commercial fishing right in this sector. However, for the purposes of generating scoresheets for such applicants, they will be evaluated and assessed further against the remaining balancing criteria.

7. QUANTUM ALLOCATION METHODOLOGY

For this allocation period, only sardine and anchovy will be allocated under the TACs and TABs, and the quanta allocated will be expressed as a percentage of the TAC for each species. Given the inherent variability in population sizes of small pelagic fish species and the current depleted status of the sardine resource, applicants are encouraged to apply for both sardine and anchovy rights. These percentages will not necessarily remain fixed for the duration of the right and may change under circumstance of low biomass of either anchovy or sardine (see below). The other targeted species (West Coast red eye and mesopelagic fishes) will be managed via unallocated PUCLs. The Department encourages applications that demonstrate an intention to improve utilisation of the West Coast red eye resource. The Delegated Authority shall allocate quanta based on criteria intended to achieve the objectives of this policy.

For sardine and anchovy, the size of each quantum allocated will be based, *inter alia*, on the following considerations: (i) the number of applications received (in each Category) for each resource and the tonnages required; (ii) the anticipated sardine and anchovy TACs over the short to medium term (5-10 years); (iii) the demonstrated capacity of applicants to catch and process small pelagic fish and (iv) the determination of a minimum allocation that will be economically meaningful. These minimum economically meaningful allocations are likely to range between 200 and 500 tonnes for sardine and 1500 and 3 000 tonnes for anchovy.

When sardine or anchovy stocks are at low biomass levels and hence TACs are much reduced, the percentage of the TAC held by each RH will change on an annual basis. This will be done through the incorporation of a sliding scale for TAC re-apportionment at pre-specified low TAC levels, such that below these levels the relative decrease in the tonnage allocated to smaller rights holders will be less than that of larger rights holders. This mechanism seeks to provide an economic buffer for smaller RHs at low TAC levels. The formula needs final specification and will depend on the level selected for the low TAC threshold and the range over which it applies. The proportion P_i of the TAC allocated to a right holder in a particular year (TAC_y) will change to $P\#_i$ when the TAC drops below the pre-specified low level (TAC_{low}), where $P\#_i = \frac{100 * P_i{}^q}{\sum_i P_i{}^q}$ with $q < 1$ and where $q = \frac{TAC_y}{TAC_{low}}$.

Ten percent of the total quantum for each allocated species will be reserved for appeals until all appeals have been finalised. After finalisation of the appeals process, any remaining quanta will be re-distributed on a pro-rata basis to RHs in the sector from the following fishing season onwards.

Should any right be revoked for whatever reason in any year during the current period of allocation that right will revert to the State. The quanta associated with such rights will be re-distributed in the sector from the following fishing seasons onwards in accordance with the alternatives that have been outlined in the General Policy.

8. NEW ENTRANTS

The TAC set for anchovy remained relatively stable over the previous rights allocation period (2006 to 2020). In contrast, there has been a substantial decline (85%) in the TAC set for sardine in this sector. This, together with the inherent variability of stocks of small pelagic fishes and the fact that this sector depends on high volumes with small profit margins has already impacted the viability of particularly small rights. This is borne out by the observed reduction in the number of FPEs and vessels, and the increased consolidation of rights in this sector, over the previous rights period.

The sardine resource is currently depleted and is unlikely to increase substantially in the short to medium term (5-10 years), whilst the anchovy resource is currently at an optimal status. Hence, to ensure viable long-term allocations of anchovy and sardine the number of access rights in this sector should be reduced, particularly the number of rights allocated for sardine. This could be achieved through, amongst other things, assessment of the performance of the previous RHs.

The Department considers that whereas there is scope for the introduction of new entrants into the sector, this is limited for the sardine fishery. New entrant applicants will have to demonstrate that they have the knowledge, skill and capacity to fish for and process/market small pelagic species, as well as demonstrating commitment to invest in this sector within the medium term.

9. SUITABLE VESSELS

A suitable vessel in the Small Pelagic sector is a vessel that:

(a) Is SAMSA registered and of a length between 10-40 m (vessels smaller or larger than this range may be considered).

(b) Has a functioning Vessel Monitoring System (VMS).

(c) Is geared for purse-seining.

(d) Is not being detained or has not been confiscated under the MLRA and is not negatively listed on any Regional Fisheries Management Organisations (RFMO) list and/and/or Treaties.

10. APPLICATION AND GRANT-OF-RIGHT FEES

Applicable fees have been published in the Government Gazette No. 39451, Volume No. 605, 25 November 2021, in terms of section 25 of the MLRA.

The application fees are payable upon submission of an application and is non-refundable.

The grant-of-right fees are payable by all successful applicants within 60 days of the granting of the right.

11. MANAGEMENT MEASURES

The management's principal management measures for the small pelagic sector, following the allocation of rights, are set out below:

11.1 Optimising Utilisation and Promoting Sustainability

The sector will be managed to promote sustainable utilisation of the target species and optimal use of both target and bycatch species.

11.2 Rebuilding the sardine resource

Rebuilding the currently depleted sardine resource, in particular the western component.

11.3 Spatial Management

Given that the sardine resource comprises two stock components, one predominantly off the West Coast and the other predominantly off the South Coast, spatial management of this fishery is required. This will be achieved through restricting and/or prohibiting the amount of the directed sardine TAC that may be caught in certain areas. Additionally, fishing for small pelagic fish may be prohibited in certain areas and/or periods for conservation or scientific purposes and spatial management of other species may also be applied.

11.4 Transfer of Commercial Fishing rights and/or Shares and/or Members' Interests

RHs in this sector shall consider the Policy for the Transfer of Commercial Fishing rights or Parts thereof (the Transfer Policy) when transferring their fishing rights and/or shares and/or members' interests.

11.5 Consolidation of Right Holders

Following the allocation of 15-year commercial fishing rights in this sector, the Department will facilitate the consolidation of the number of RHs active in the sector, if necessary.

11.6 Monopoly

While the Department will encourage the consolidation of rights in this sector, it is opposed to the establishment of a monopoly that may operate to the detriment of smaller RHs.

11.7 Vessels and Fishing Effort

There are presently 63 active small pelagic fishing vessels that operate in South African waters. As many RHs do not own the vessels they use, and as vessels may require replacement, the Department recognises that many RHs will seek to introduce vessels after the allocation of long-term fishing rights. RHs will not be permitted to introduce vessels capable of expending effort that is far in excess of their allocations. In addition, the Department will consider all vessel change applications into the fishery on a case by case basis.

11.8 Observer at Sea and Land Based Monitoring

The Department strongly encourages collaboration with RH's and industry associations to enhance and possibly automate at-sea monitoring, offloading (species composition determination) and data capturing through the use of technology (cameras).

12. PERMIT CONDITIONS

Permit conditions for this sector will be issued annually. The permit conditions will be co-determined through regular interactions with RHs, their representatives or associations and other internal and external stakeholders.

13. MONITORING AND EVALUATION OF THE POLICY

The Department will monitor and evaluate the final policy by instituting a number of formal performance measuring exercises for the duration of the 15-year period. It is envisaged that the first set of performance measuring exercises will take place after seven years, from the date of finalisation of the appeals.

Although the Department will finalise the precise criteria against which RHs will be measured after the allocation of commercial fishing rights, and after consulting with RHs, the following broad performance-related criteria may be used:

(a) Transformation.

(b) Investment in vessels and gear.

(c) Bycatch mitigation compliance with applicable laws and regulations.

(d) Value adding and enterprise development.

South Africa has not been immune from the negative impacts of climate change on fisheries resources and communities who depend on fisheries for their livelihoods. The impacts of climate change may be addressed through adoption of adaptation and mitigation measures in the fishing sector. Research and ongoing monitoring by both the Department and stakeholders will play an important role in identifying gaps, weaknesses and flaws in existing fisheries policies and management measures.

South Africa has published the National Plan of Action for the Conservation and Management of Sharks (NPOA-Sharks) and the National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (NPOA-Seabirds). The NPOA-Sharks and NPOA-Seabirds applies amongst others, to the fisheries that catch and land sharks and seabirds as targeted species or non-targeted species (by-catch). In order to achieve the optimum utilisation and ecological sustainable development of marine living resources, South Africa will implement the NPOA-Sharks of Action in all the identified fisheries to ensure that the ecosystem is protected, and fishing strategies are consistent with the principles of biological sustainability and rational long-term economic use.

The purpose of performance measuring will be to ensure that the objectives of this policy are met.

14. CONTRAVENTIONS

The Department may institute legal proceedings in terms of Section 28 of the MLRA and/or civil or criminal proceedings against any right holder that is found to have contravened any condition upon which the right was granted. These contraventions include:

(a) A right holder who fails to utilise their Small Pelagic fishing right for any two consecutive fishing seasons during the period for which the right has been granted without a reasonable explanation;

(b) A breach of the provisions of the MLRA, Regulations, Permit Conditions, the Transfer Policy and other related Acts included in the Permit Conditions by the right holder, or its employees (whether permanent, full-time or part-time), its contractors, agents or advisers and the skipper of the vessel;

(c) A right holder who fails to meet the objectives of this policy, as identified during the performance measuring exercise.

15. REPEAL

This Policy on the Allocation and Management of Small Pelagic Commercial Fishing Rights: 2021 repeals the Policy for the Allocation and Management of Commercial Fishing Rights in the Small Pelagics (Anchovy and Sardine Purse-Seine) Fishery: 2005

~ END ~