



forestry, fisheries & the environment

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Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

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RECORD OF DECISION: DETERMINATION OF THE RESOURCE SPLIT BETWEEN LOCAL COMMERCIAL AND SMALL-SCALE FISHING IN THE SQUID SECTOR

1 INTRODUCTION

- 1.1 On 23 October 2020, the Minister of Forestry, Fisheries and the Environment, invited the public to comment on the proposed resource split between local commercial and small-scale fishing in the Traditional Linefish, Squid and Abalone fishing sectors in terms of section 14(2) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) ("the Act") (see **Annexure A**).
- 1.2 This followed the promulgation of the *Policy* for the *Small-Scale* Fisheries Sector in South Africa: 2012, in terms of the Marine Living Resources Act, and the Regulations relating to Small-Scale fishing and the identification of Traditional Linefish, Squid and Abalone by the Department as eligible for small-scale fisheries.
- 1.3 In the invitation for public comment, the Department proposed the splits between the sectors as follows:
 - 1.3.1 Traditional Linefish fishing sector to be split between Local Commercial fishing, which shall receive 50% of the TAE apportionment, and Small-Scale fishing, which shall receive 50 % of the TAE apportionment.
 - 1.3.2 Abalone fishing sector to be split between Local Commercial fishing, which shall receive 50% of the TAC apportionment, and Small-Scale fishing, which shall receive 50 % of the TAC apportionment.
 - 1.3.3 Squid fishing sector to be split between Local Commercial and Small-Scale fishing on the following basis: Local Commercial shall receive 75% of the TAE apportionment and Small-Scale fishing shall receive 25% of the TAE apportionment, respectively.

2 COMMENTS RECEIVED

- 2.1 One hundred and fifty-nine (159) submissions were received. A multidisciplinary Departmental task team was constituted to consider the submissions. The comments considered were inclusive of comments submitted following the call made by the then Minister of Agriculture, Forestry and Fisheries in the Government Notice No. 660 published in Government Gazette No. 42457 of 13 May 2019 and subsequently withdrawn on the 19th August 2019.
- 2.2 In order to ensure the speedy implementation of the Small-scale Fisheries sector, the Department has opted to consider the submissions per individual sector, starting with the squid sector. The submissions received with respect to the proposed resource split in the Abalone and Traditional Linefish will be dealt with at a later stage and a decision will be communicated in this regard.

RECORD OF DECISION: DETERMINATION OF THE RESOURCE SPLIT BETWEEN LOCAL COMMERCIAL AND SMALL-SCALE FISHING IN THE SQUID SECTOR

- 2.3 Of the 159 submissions received, 124 submissions contained comments specifically in relation to the split between local commercial and small-scale fishing in the squid sector.
- 2.4 An evaluation of the comments that have been received by the Department indicated:
 - 2.4.1 The majority of the comments received were from the current commercial operators in the squid sector (Exemption Holders), and were similar in nature.
 - 2.4.2 Repetitive/identical comments were received from the same individuals representing a number of different entities currently operating commercially in the squid sector; and
 - 2.4.3 Repetitive/identical comments were received from entities currently operating in the sector on behalf of a number of crew members that are working for those entities.

3 CONSIDERATION OF THE COMMENTS

- 3.1 Out of the 124 comments received pertaining to the proposed split in the squid sector, 109 commenters (87.90%) did not support the proposed resource split of 75% of the TAE to Local Commercial and 25% of the TAE apportionment to the Small-Scale fishing sector in the squid sector as opposed to 9 (7.26%) that supported the split and 3 (2.42%) that proposed the 70/30 split and 1 (0.81%) that proposed a 50/50 split. Two (2) of the commenters (1.61%) did not express if they support the proposed split or not.
- 3.2 The submissions that were opposed to the proposed split, did not provide an alternative proposal for the split. The reasons that were cited for not supporting the split were largely because:
 - 3.2.1 the proposed split will negatively affect the commercial sector's existing investment,
 - 3.2.2 there has never been a proper consultation with the fishing industry regarding the proposed resource split;
 - 3.2.3 the proposed split is unlawful in terms of the Small-scale Fisheries Policy, its regulations and Marine Living Resource Act, 1998 (Act No. 18 of 1998) as the Small-scale fishing communities would not engage in commercial squid fishing; and
 - 3.2.4 the crew serving on vessels servicing the current commercial operators will lose jobs and this will have a negative economic impact on them and their families.
- 3.3 Currently, the squid fishing sector employs 2 443 crew and is restricted by a TAE limit of 295 000 person days. The current proposal by the Department of 75/25 will mean that the effort will be apportioned as of 75% of the TAE (221 250 person days) to the commercial sector and 25% (73 750 person days) to small-scale fishing.
- 3.4 Currently, 12 out of the 15 small-scale fisheries cooperatives identified as eligible for access to the squid resource have expressed interests and indicated that they have access to suitable vessels. It is important to note that the existing vessels identified are vessels that are already operating in the sector and the vessel owners are willing to enter into catching agreements with the identified fishing cooperatives. This accounts to 289 crew members that are already active in the squid sector. This is approximately 12% of the existing crew in the squid sector.
- 3.5 It is expected that it will take time for the remaining cooperatives in the Small-scale fishing sector that do not have access to suitable vessels, processing facilities and market to develop such capacity (as well as developing the skills to catch, process and market squid).
- 3.6 Currently, there is over-capacity in the squid sector and this has led to the implementation of additional closed season; it is important that consideration is given to adjusting the management system of the sector. This should include considering limiting the effort in the sector in the form of

RECORD OF DECISION: DETERMINATION OF THE RESOURCE SPLIT BETWEEN LOCAL COMMERCIAL AND SMALL-SCALE FISHING IN THE SQUID SECTOR

"number of sea days" per right holder as well as reducing the number of crew in the squid sector in future.

- 3.7 In determining fisheries allocations between various fishing sectors, there are criteria that are considered that include (but not limited to) the status of stocks, the level of current fishing effort; the existing commercial interests, fishing patterns and fishing practices of new and existing right holders; the needs of coastal communities which are dependent mainly on fishing. Criteria to be considered should not be skewed to the existing operators and should be fair and non-discriminatory in the allocation of fishing opportunities.
- 3.8 The implementation of the Small-scale Fisheries Policy on its own is expected to come at a price as there is no additional fish that is being added to the fishing sector and as such, for the Small-scale Fisheries Policy to be implemented, existing sectors will have to forego a portion of the fish that traditionally has been allocated to them.
- 3.9 The intention of Government in implementing the SSF Policy was to positively impact the lives of small-scale fishers, improve their food security and advance marginal and vulnerable groups such as women, youth and the disabled.
- 3.10 The "rights" allocated under the MLRA are not property rights and should be understood as a statutory permission to harvest a marine resource for a specified period of time. This is clear from section 18(6) of the Act which provides that a fishing right is valid for the period determined by the Minister (or her delegate) whereafter it automatically reverts back to the State and may be re-allocated (either to the previous right holder or another entity) in terms of the applicable provisions of the Act. As such, no entity or sector can lay claim to the resource particularly once such resource has expired and is due for re-allocation.

4 DECISION

- 4.1 Devising an allocation strategy that divides limited fisheries resources amongst increasing numbers of fishers in a manner that ensures the long-term sustainability of the resources and that is acceptable to all stakeholders is an extremely difficult and challenging task.
- 4.2 The requirement to split the resource amongst interested resources users is common across the globe; and parallels can be drawn internationally to ensure that the process and methods followed comply with the domestic law and are generally accepted. It is important that there are means to accommodate new resource users in a way that does not undermine conservation and the sustainable use of the fishery resource.
- 4.3 It is known that the squid sector is lucrative and already over-subscribed. Thus, the only means of developing the sector and accommodating small-scale fishers will be for existing operators to reduce their current allocations.
- 4.4 In reaching my decision, I have considered the:
 - 4.4.1 Marine Living Resources Act, 1998 (Act No. 18 of 1998) and the subsequent legislation promulgated there under;
 - 4.4.2 deliberations undertaken in the consultation process on the promulgation of the Policy for the Small-Scale Fisheries Sector in South Africa: 2012; and
 - 4.4.3 submissions made in response to the call for *the proposed resource split between local commercial and small-scale fishing in the Traditional Linefish, Squid and Abalone fishing sectors*.

RECORD OF DECISION: DETERMINATION OF THE RESOURCE SPLIT BETWEEN LOCAL COMMERCIAL AND SMALL-SCALE FISHING IN THE SQUID SECTOR

- 4.5 Having carefully considered the submissions made, I have decided:
- 4.5.1 To apportion 15% of the squid Total Allowable Effort to the Small-scale Fisheries sector and 85% of the squid Total Allowable Effort to the commercial squid sector;
- 4.5.2 that the apportionment should be reviewed at the beginning of every fishing season with the view of increasing the apportionment of the Small-scale Fisheries sector from a minimum of 15% to a maximum not exceeding 25%, subject to catches and the level of fishing effort; and
- 4.5.3 there should be an introduction of a Capacity Management Regime in the squid sector (commercial and small-scale components) in the form of allocating a number of person days per right holder.
- 4.6 Should you wish to appeal this decision you are referred to section 80 and regulation 5 of the MLRA, which allows you to lodge an internal appeal in the prescribed form to the Minister within 30 days after notification of this decision. The subject and grounds for the internal appeal must be clearly indicated. The appeal may be emailed to "appeals@environment.gov.za".

Yours sincerely



Ms Nomfundo Tshabalala
DIRECTOR-GENERAL
DATE: 03/06/2021