

ST HELENA GOVERNMENT'S FISHERIES LICENCING POLICY

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# Table of Contents

1	Introduction .....	3
2	Licencing Aim and Principles .....	3
3	Fishing Licencing Powers and Responsibilities.....	5
4	Permitted Fishing Methods.....	6
5	Fish Resources.....	6
6	International Commission for the Conservation of Atlantic Tunas .....	8
7	Fishing Licences .....	8
8	Licencing Conditions .....	10
9	Licence Fees .....	11
10	Renewal of Licences.....	12
11	Transfer of a Licences .....	12
12	Issues That Will Preclude the Award of a Licence .....	12
13	Data and Reporting Requirements .....	13
14	Fish Aggregating Devices .....	14
15	Licencing of Various Fishing Activities .....	15-22
16	Capacity of St Helena to Assist in Cases of Emergency to Support Licenced Fishing Vessels in the EFZ .....	22
17	Licence Compliance and Enforcement.....	23
18	Appeal Against Licencing Decisions.....	25
19	Administration of Licencing.....	25
20	Policy Review.....	25
	Annex 1 .....	26

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## Policy Definitions

In this Policy the following key words and terms have the following meaning:

**Access** means the opportunity to harvest fisheries resources.

**Category A fishing vessel** means a fishing vessel able to be inspected and certified for sea worthiness under the Ports Ordinance.

**Category B fishing vessel** means a fishing vessel not able to be inspected and certified for sea worthiness under the St Helena Ports Ordinance due to the limited capacity on Island to certify the vessel and lift the vessel onshore for inspection purposes.

**St Helenian fishing vessel** means a fishing vessel which is registered as a fishing vessel in the port of Jamestown.

**Foreign fishing vessel** means a fishing vessel which is not a St Helenian fishing vessel.

**EFZ** means those waters extending from the seaward limit of 12 nautical miles (nm) to a maximum of 200 nm from the baseline

**Exploratory fishing** means fishing activity undertaken:

- (a) to evaluate the distribution, abundance and demography of the target species, leading to an estimate of the fishery's potential yield;
- (b) to review the fishery's potential impacts on dependent and related species
- (c) to allow advice to be formulated on appropriate harvest catch levels, as well as effort levels.

**Inshore** means the fishery within 30 nm from the Island.

**Offshore** means the fishery between 30 and 200 nm from the Island.

**Fish** means any marine fish or marine invertebrate.

**Fisheries** means the area, locality or place in or on which a fishing appliance is used, and the area or stretch of water in or from which fish may be taken by the fishing appliance.

**Fishing vessel** means any vessel of any size used for, equipped to be used for, or intended for use for the purposes of fishing or fishing related activities, but does not include support ships, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products.

**Fish Aggregating Device** means an anchored, floating or submerged object deployed by fishing vessels for the purpose of aggregating tuna or large pelagic fish species to support fishing operations.

**Flag state** means the state under whose laws the fishing vessel is registered.

**ICCAT** means the International Commission for the Conservation of Atlantic Tunas which is a Regional Fisheries Management Organisation responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and its adjacent seas.

**Territorial sea** means the waters extending to 12 nautical miles (nm) from the baseline.

**Traditional rock fishing** means the use of a pole and line, rod and reel or hand line to catch fish from the shore for personal consumption only.

**Permanently lost** means the vessel is beyond recovery and cannot be re-entered into service.

**Scientific purposes** means the purpose is directed towards the practice of science and includes research

**Sustainable** means fisheries based on healthy functioning ecosystems that provides for the wellbeing of society, now and in the future.

**Droppers** means – a fishing line with a series of hooks used to catch bait species or inshore fish species.

**Viable** means the fishing industry has the resources to function properly and grow in order to succeed.

In the future Fisheries Ordinance to be drafted, the definitions provided above may be required to be amended as necessary to reflect the final policy for licencing of fishing activities.

## 1. Introduction

- 1.1 St Helena Government's (SHG) draft <sup>1</sup>Fisheries Management Policy Statement provides for an approach to management of St Helena's fisheries that is based on St Helenians both today and in the future being able to fish and have access to high-quality seafood, sourced from sustainably managed fisheries.
- 1.2 Fishing by both St Helenian and foreign fishing vessels will be considered for licencing in order to achieve and sustain a viable fishing sector.
- 1.3 The purpose of this policy is to outline how the SHG, through licencing arrangements, manages access for fishing activities within St Helena's territorial sea and 200 nautical mile (nm) Exclusive Fishing Zone (EFZ).
- 1.4 The policy applies to the harvesting of fish species only and covers the issuance of licences to all fishing vessels (both St Helenian and Foreign). However, nothing in this policy commits SHG to issue a licence for any type of fishing activity within its territorial sea and EFZ.

## 2. Licencing Aim and Principles

- 2.1 The aim of the Policy is to provide a licencing regime that enables a sustainable and orderly harvesting of fish resources in order to promote and maintain viable fishing enterprises for fishermen and enjoyable fishing experiences for the community in the long term, and to protect the marine environments and their resources within St Helena's territorial sea and EFZ.
- 2.2 Productive, sustainable and responsible fishing activities achieved through implementing an enabling fishing licencing regime is important in helping to realise the aim of the policy and to achieving the overall goal of the draft Fisheries Management Policy Statement.

- 2.3 Licencing of fishing activities will be underpinned by the following key principles:
- Sustainable use of fisheries resources and protection of marine species and habitats – a precautionary approach will guide licencing decision-making to ensure sustainable fisheries where information is uncertain, or inadequate. The precautionary approach will involve the use of data from undertaking fisheries science, historical data as well as input from those operating in the sector. This approach may also mean a licence may not be granted until sufficient information on the sustainability of a fishery can be obtained, where this is lacking.
  - St Helena’s fisheries are a property resource to be managed for the benefit of all St Helenians.
  - The needs of all stakeholders will be identified / assessed and where there is conflict, SHG will seek to find compromise, and, if necessary, make a balanced, objective decision based on the best available evidence.
  - Improving the economic viability of our fisheries where possible within environmental limits.
  - Compliance with international law and regulations, including the need for Human Rights provisions with respect to crews to be included in foreign licence agreements, and providing for regional fisheries management organisation recommendations and conservation measures.
- 3.1 The <sup>2</sup>Fisheries Limits Ordinance provides for the regulation of sea fishing within St Helena’s territorial sea and EFZ. The <sup>3</sup>Environmental Protection Ordinance (EPO) provides safeguards for our marine environments and species. This includes prohibitions related to protected species making it illegal to hunt, collect, kill, wound, pursue or capture certain species without a licence.
- 3.2 Bigeye Tuna is listed as IUCN category Vulnerable but is fished for commercial purposes within UKOT catch limits. White Marlin and Blue Marlin are listed as IUCN category Vulnerable, and Black Marlin as IUCN data deficient. These Marlin species will be catch and release only, except for local and international record attempts, and accidental deaths recorded and monitored. Whale sharks and oceanic white tip sharks are listed under CITES; and other species of shark found in St Helena waters, such as the Shortfin mako, Threshers, and Box ray and Chilean devil ray, are protected under the Convention on the Conservation of Migratory Species of Wild Animals; whilst the Hammer Head and Silky sharks are protected under ICCAT. All sharks species are IUCN listed and the EPO states that there will be no-take of Near Threatened to Vulnerable categories of shark species.
- 3.3 Copies of the aforementioned Ordinances are available from the Environment, Natural Resources and Planning Directorate’s Fisheries Office and [via e-link to SHG website].

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<sup>1</sup> *St Helena Fisheries Management Policy Statement: 2019*

<sup>2</sup> *St Helena Fisheries Limits Ordinance, 1977*

<sup>3</sup> *Environmental Protection Ordinance, 2016*

## 4. Fishing Licencing Powers and Responsibilities

### Responsibilities of the Chief Fisheries Officer

- 4.1 The Chief Fisheries Officer (CFO) has responsibility for the administration of fishing licencing for all fishing activities within St Helena's territorial sea and EFZ and for the issuing of all fishing licences for both St Helenian and foreign fishing vessels.
- 4.2 As the licencing authority, the CFO specifies mandatory and discretionary conditions to be attached to any fishing licence for a St Helenian fishing vessel.
- 4.3 At any time after the issue of a licence, the CFO may vary the conditions, suspend or revoke the licence, or transfer a licence, if it appears to the CFO to be necessary or expedient for the regulation of fishing.
- 4.4 The CFO may grant approval to persons authorised by the Licencing Section of the Police Directorate under a licence to use a speargun where it is desirable for scientific purposes and would facilitate the collection of marine specimens to further such purposes.
- 4.5 The CFO is responsible for preparing and providing codes of practice to include guidance for applicants in relation to licencing procedures and guidance for Fisheries Protection Officers in relation to their role and powers for the necessary enforcement of fisheries licencing and fisheries management measures.
- 4.6 The CFO reserves the right to set local quotas or total allowable catch limits within the UKOT's quota limits for ICCAT regulated species or other species fished if it is deemed necessary to protect fish stocks in St Helena's fisheries. Establishing local quotas will be based on the best available information through Atlantic species science data, local stock assessment data and input from the fishing sector's participants.
- 4.7 The CFO also reserves the right not to issue a fishing licence if the CFO is of the opinion that the issue of a licence would not be in the interest of the promotion, development, improvement or protection of St Helena's fisheries and fishing industry and protection of St Helena's marine environment. Section 14 provides information on the basis by which the CFO might not award a fishing licence.
- 4.8 The CFO may delegate his fishing licencing powers and responsibilities to the Deputy Chief Fisheries Officer (DCFO).
- 4.9 The powers of the CFO are implemented through provisions in the Fisheries Ordinance.

### Responsibilities of Governor in Council

- 4.10 The Governor in Council (GIC) may through the making of regulations:
  - require an application for a licence to be set out in a specific format and include specified information.
  - specify the format of a licence and mandatory and discretionary conditions to be attached to a commercial, exploratory and sports fishing licences for foreign fishing vessels ensure St Helena's obligations under ICCAT and other International Regulations are met.

- require an application for a licence to be set out in a specific charge fees for application and issuing of fishing licences.
- provide for measures necessary to protect and regulate access to the fisheries through fishing.
- determine prohibited areas within the territorial sea for the use of spear guns with input from relevant stakeholders.
- The GIC powers are enabled through provisions of the Fisheries Ordinance.

## 5. Permitted Fishing Methods

- 5.1 Within St Helena’s territorial sea and EFZ fishing will only be licenced for use of one by one fishing methods; fishing with droppers; fishing for lobster using metal pots; and bait fishing using small nets. One by one fishing methods include pole-and-line, rod and reel, trolling, use of a handline and use of a lance and speargun) to catch fish one fish at a time.
- 5.2 Fishing with droppers is prohibited during 1st January to March 16th for inshore commercial, sports and recreational fishing licences, and for traditional rock fishing, but will be permitted for offshore bait fishing as it is the most effective method for bait fishing in the offshore fishery.

## 6. Fish Resources

It is unclear whether the highly migratory pelagic fish stocks found within St Helena’s territorial sea and EFZ form discrete populations that could be amenable to local management, as stock assessment and science work is still being undertaken. The stocks are part of larger populations for which scientific stock assessments may only be viably undertaken on the basis of data generated across much of the Atlantic Ocean. These assessments are therefore made by the International Commission for the Conservation of Atlantic Tunas (ICCAT) on behalf of its contracting and non-contracting co-operating parties – for example the UK and its Overseas Territories, including St Helena – and are based on catch and effort returns from fishing fleets and on biological data provided by these parties. The extent to which St Helena can benefit from the quotas based on these assessments and allocated by ICCAT to the UK’s Overseas Territories depends on discussions between St Helena and the other territories to determine their interest and catch levels for the species that are of importance to St Helena to develop and sustain a viable fishing sector. Further study is needed to determine the distribution of different life stages around St Helena. Ongoing work has demonstrated that juveniles are predominantly found in the inshore area. Therefore, local management measures may be required

- 6.1 The inshore fishery support a variety of ground-fish species and these are not regulated by ICCAT.

### Fish Species, Catch Limits and Fish Size Restrictions

- 6.2 Restrictions will exist for the taking of certain fish species, for catch limits and sizes of some of the species able to be caught. Fish species able to be caught under the various licences, their associated catch limits and size restrictions are listed at Annex 1. The table at Annex 1 will be updated as scientific understanding

of the species improves and through consultation with local stakeholders. This may require changes during a licence period and the CFO reserves the right to change fish catch details of a licence where this is necessary. The licence will be varied as a result.

- 6.3 The taking of berried spiny or slipper lobster, dolphins and all IUCN listed Endangered, Near Threatened and Vulnerable species of shark (including shark finning) and targeted fishing for shark is prohibited throughout St Helena's territorial sea and EFZ. White, Blue and Black Marlin will only be caught on the basis of 'catch and release' and will be retained only in the case of local or international record attempts (including length and weight records) under sports and recreational licences. Any of these species caught alive and with a good chance of survival should be returned to the sea and all live and dead discards of such species recorded on the Reporting Log Book.
- 6.4 A "quota allocation" describes the tonnage of a particular fish species that the Island's licenced fishing fleet is currently allowed to catch collectively on an annual basis. If in the future the overall total allowable catch were reduced or the fishing fleet increased then there may be a requirement to manage those allocations on a per-vessel basis. Allocations of a fish species to the fisheries sector are expressed as the Total Allowable Catch ("TAC"). Quota allocation for tuna and tuna-like species is informed by ICCAT's species wide quota limits for the United Kingdom's Overseas Territories (UKOT's), of which St Helena is a constituent.
- 6.5 Fish "size limits" and "daily bag/vessel limits" for both pelagic and ground fish species across the recreational and sports fishing categories will be implemented to regulate the numbers of fish retained.
- 6.6 Fish of species subject to a minimum size restriction must be landed whole so that their length may be verified. These fish may be gutted.
- 6.7 A St Helenian fishing vessel granted a licence to fish in St Helena will harvest catches under the UKOT's quotas for those ICCAT regulated species able to be fished.
- 6.8 A Foreign fishing vessel granted a licence to fish in St Helena will harvest catches for those ICCAT regulated species covered by their licence within the total allowable catch limits of St Helena but the catch will count against the quotas of their flag state. An access agreement drawn up in line with ICCAT Recommendation 14-07, and with provision for local fisheries management requirements, will be signed between St Helena and the Flag State prior to the issuing of a fishing licence to facilitate access of a foreign vessel under their own quotas. A licence will not be issued to fish in St Helena for ICCAT regulated species to foreign vessels flagged to states that are not Members of, or Co- operators with, ICCAT.
- 6.9 If the CFO determines, through scientific studies, through analysis of catch data or as a result of input from the fishing sector that a species of fish has been, or there is the likelihood for a species to become over-fished, a range of species-specific management measures can be adopted across all fishing licences, including the following:
- closure of a fishery through a prohibition notice to licencees on the catching of the related species.
  - a species moratorium.

- a licence moratorium.
- a spatial and/or temporal moratorium.
- non-renewal of a certain fishing licence type. any other appropriate measures as he/she deems necessary.

## 7. International Commission for the Conservation of Atlantic Tunas (ICCAT)

- 7.1 As one of the UK Overseas Territories (UKOTs), St Helena is a co-operating party to ICCAT through the UK. ICCAT's annual binding Recommendations that are applicable to St Helena will be included in a Fisheries Ordinance Regulation. The Foreign and Commonwealth Office Representative responsible for ICCAT issues in the UKOTs, in consultation with the CFO, will be responsible for the identification of relevant binding elements for St Helena and the Attorney General's Office will as necessary, draft the Regulation for implementation of the Recommendations.

## 8. Fishing Licences

- 8.1 Fishing by fishing vessels (whether St Helenian or Foreign) in St Helena's fisheries is prohibited unless authorised by a licence granted by the CFO. This means that no person is able to fish for commercial, exploratory, sport or recreational purposes unless authorised to do so through a fishing licence.
- 8.2 A St Helena fishing licence grants permission to an individual or Company to harvest certain species of fish subject to the conditions attached to the licence, whenever a fishery is open. This is not a permanent permission; it terminates upon expiry of the licence. A Company would be required to declare a nominee to take responsibility for compliance with licence conditions.
- 8.3 A fishing licence issued to allow a category of fishing will be issued to an individual or company and be inclusive of a fish vessel(s) for commercial fishing, for recreational boat fishing and for sports angling and spearfishing. A licence recreational spearfishing does not need to involve a fishing vessel if spearfishing is being proposed in an eligible spearfishing zone through accessing the fishery from the shoreline. The licence will indicate the category of licence and the licenced vessel(s) where they are a part of the fishing activity.
- 8.4 Traditional rock fishing undertaken to catch fish from St Helena's coast line for personal consumption will not require a fishing licence.

### Types of Fishing Licence

- 8.5 The following type of fishing licence are recognised in the licencing of fishing activities in St Helena:
- Commercial** fishing: A commercial licence is issued to support fishing activities that contribute directly to meeting the Island's local and export requirements for fish.
  - Exploratory** fishing: An exploratory licence may be issued for a new fishery to determine if there are quantities of the a fish species that could be exploited sustainably
  - Sports** fishing: A sport licence is issued to a sportsfishing

operator who provides sports fishing opportunities to a paying client.

c. **Recreational** fishing: A recreational licence is issued to:

- a vessel owner for recreational angling or spearfishing from the vessel; or
- an individual for spearfishing activities not undertaken from a vessel.

The catch from these activities will be restricted to an amount used for personal consumption only, and which will not be sold or exchanged for profit.

- 8.6 Vessels licenced for sports fishing will not be licenced for commercial fishing unless during the first year of a commercial licence and thereafter a fishing operator can adequately demonstrate an appropriate level of commercial fishing effort. This demonstration should include landings of a given species of fish that is equivalent to other similar sized vessels in operation at the same time. This information can be provided through the licensee's Commercial Fishing Log Book and catch statistics provided from approved fish processing units where catch was sold.

### Number of Licences

- 8.7 When considering the number of fishing licences to be issued the CFO will take into account the TAC available for the inshore fishery, the offshore fishery or both combined in order to meet fishing industry objectives and ensure a sustainable harvest of fish resources, the need to make provision for the livelihoods of local fishermen, and the fishing capacity that exist in a given year to catch the TAC.
- 8.8 Where a new entrant requires a fishing licence for a specific species during a year and there is already the capacity to catch the total allowable catch, whether for the inshore or offshore fisheries for a species of fish, the CFO will not grant a licence for the required period if this is the only species that the applicant wishes to fish for. If the licence is required in the subsequent year, the CFO can take steps to allocate the total allowable catch level for the year for the species involved across an additional fishing vessel and approve the licence for the new entrant.
- 8.9 Stocks of groundfish species which may be more vulnerable to over-fishing activity may need to be protected through specific, targeted measures as indicated at Section 6.
- 8.10 Until St Helena has appropriate scientific information to be able to inform annual or bi-annual TAC (in line with ICCAT conservation measures) for tuna and tuna-like species to update its licencing regime, a precautionary approach will be taken to the number of vessels and their size to be licenced to fish in the offshore fishery.
- 8.11 Given the evolving nature of the tourism industry and interest in sport and recreational fishing activities, it is recognised that unregulated growth in these types of fishing activities may contribute to over-exploitation of specific fish resources. In keeping with the above policy principles a precautionary approach will be taken to licencing until the relative impact of sport and recreational activities on fish resources and fish habitat can be established. In practice, this will mean implementing a limit on vessel numbers that are licenced, implementing licencing for all spearfishing activities and bag/vessel limits for fishing periods for

catch of the various species of interest.

### Licence Duration

- 8.12 All licencing of fishing activity under this Policy will be for a period of 1 year or no more than 2 years in duration. The Governor in Council, with the advice of the CFO, reserves the right to determine the duration of a commercial licence for a foreign fishing vessel.

## 9. Licencing Conditions

- 9.1 Some pre-licence conditions are required to be met as part of the application process, in advance of a licence being issued, whilst others will need to be met and where possible, advanced whilst undertaking the type of fishing activity for which the licence is granted.

### Conditions to be Met for Award of a Licence

- 9.2 An applicant must be 18 years of age to apply for a fishing licence.
- 9.3 An applicant proposing to fish in St Helena's territorial sea using a Category A fishing vessel must ensure the vessel has been issued with a valid vessel safety licence under the Ports Ordinance, demonstrating the Ports Authority is satisfied it is seaworthy meets health and safety requirements for use for fishing in the territorial sea.
- 9.4 Where an applicant proposing to fish using a Category A fishing vessel seeks application for offshore fishing activities, the applicant should provide a copy of the vessel's fishing vessel registration certificate provided through the SHG Registrar of Shipping, to support a decision by the CFO of the vessel's suitability to engage in sea-fishing in the offshore fishery.
- 9.5 Where an applicant proposing to fish using Category B fishing vessel for offshore fishing activities and the vessel is registered in St Helena, the applicant should provide a copy of the fishing vessel registration certificate provided through the SHG Registrar of Shipping, to support a decision by the CFO to grant a licence. This registration certificate provides evidence of the vessel's seaworthiness. Where the Category B fishing vessel is registered outside of St Helena, a valid sea worthiness certificate must be made available to the CFO to support a decision to grant a licence.
- 9.6 A valid seaworthiness certificate provides evidence of the good condition of the following matters:
- health and safety requirements;
  - hull of the vessel; engine of the vessel;
  - steering and electric systems;
  - rudder;
  - fuel storage system;
  - safety and fire-fighting equipment;
  - vessel monitoring equipment;

- lifesaving, radio and emergency equipment.
- 9.7 If a condition survey report forming part of a seaworthiness inspection identifies any defects, a licence offer (in the event that other pre-licencing conditions are met) will require the applicant to have the defects remedied and to provide satisfactory evidence to this effect. A licence will not be granted until all matters specified as requiring attention have been satisfactorily and demonstrably addressed.
- 9.8 Where offshore fishing licences are being applied for, an applicant must be able to demonstrate that the fishing vessel has been successfully registered by the SHG Registrar of Shipping for offshore fishing and the Skipper and crew members are equipped with the required training and certification requirements in line with MCA Guidelines that is applicable to the size of vessel being proposed for offshore fishing activities,. Such training and certification relates to Skipper qualifications, engine room watch keeping, basic sea survival, basic fire fighting, prevention and first aid; and health and safety training.
- 9.9 SHG will take steps to progress towards ensuring these requirements for qualifications and certification is able to be achieved for more of its St Helenian fishermen, and use is made of testimonials provided by appropriate members of the fishing industry, to provide evidence of competency and service for fishing activities and operation of fishing vessels.

#### General Conditions:

- 9.10 Licences will be granted for fishing vessels up to a maximum length of 30 metres as this is the length of vessel considered to be suitable for fishing in the offshore fishery.
- 9.11 A fishing licence may be issued in the name of an individual or company who is able to prove their ownership, hiring or charter arrangement of a fishing vessel for the duration of the licence period.
- 9.12 Licence holders will be required to fish their licences personally or through employees, as provided for in a licence application and agreed in writing by CFO at the time of licence award, or where changes to applicant or crew circumstances are experienced during the licence period.

#### Specific Conditions:

- 9.13 The specific conditions that relate to each type of fishing licence are provided for in Sections 16-19.

## 10. Licence Fees

- 10.1 Licence fees will be required for all of the types of fishing licences available in St Helena and will be provided for through Fisheries Regulations. Licence fees may differ in price for local and foreign fishing activities. Licences must be paid on an annual basis.

## 11. Renewal of Licence

- 11.1 A licence holder may apply for renewal of a licence and be issued with a new licence to carry on fishing (subject to conditions). There is no limit on the number of times a licence can be renewed subject to the opportunity to renew a licence, and licence conditions being met for previous licences
- 11.2 A licensee may carry on fishing with a new vessel if they have lost their vessel due to circumstances outside their control and the licence will be updated with details of the new vessel. This provision applies when vessels issued with a fishing vessel licence are permanently lost or rendered unserviceable (e.g. sinking, fire, collision, stranding).

## 12. Transfer of Licences

- 12.1 A fishing vessel licence may be transferred on death as part of an estate or in the event of the disposal of an existing licenced vessel. However, if the vessel is sold or transferred to a new owner, then the CFO will require the new owner to apply for a licence to use the vessel for fishing.
- 12.2 On disposal of a fishing vessel, the licence holder will be required to provide the CFO with evidence that their vessel has been sold, and is no longer owned or operated by them prior to the transfer of the licence.

## 13. Issues That Will Preclude the Award of a Licence

- 13.1 The CFO reserves the right not to award a fishing licence, including on the basis of evidence that:
  - fish catches and fishing effort associated with the number of fishing licences already approved for a fishery is enough to achieve an annual target catch level for the species involved and a licence moratorium is in place;
  - a vessel owned, chartered or leased for fishing by an applicant does not have valid vessel seaworthiness licence ensuring its compliance with the St Helena Ports Ordinance, or in the case of Category B fishing vessels, a seaworthiness certificate for its use in the offshore fishery limits from an internationally recognised vessel certification authority;
  - vessel registration requirements (with Registrar of Shipping) in St Helena for a Category B fishing vessel (whether a St Helenian or foreign fishing vessel) to be used as part of a commercial or sport fishing venture, has not or is not able to be met. This includes crew related training and certification requirements applicable to the vessel proposed for fishing.
  - a vessel has been involved or is suspected of being involved in illegal, unregulated or unreported (IUU) fishing activities;
  - the owner, charterer or operator of the vessel is, or includes, at the time of application or when the vessel is in the Island's territorial sea or EFZ, a company, individual or other entity previously or currently involved with IUU fishing;

- if SHG is owed money by a debtor in connection with a matter related to the management of our fisheries including, but not limited to, application or licence fees or damages, costs, or a fine awarded by a Court or arbitral tribunal in respect of a SHG fishery-related case, it is likely that this will preclude the award of a licence involving a vessel which is or which will be when in the Island's territorial sea or EFZ owned, chartered or operated whether solely or jointly by the debtor or by any associate thereof. However before deciding whether to refuse a licence on this grounds, the Chief Magistrate will give the debtor, and the owner, charterer and operator if different, an opportunity to make representations in support of the award of a licence that they wish the Chief Magistrate to consider;
- where an individual or company has been issued a fishing licence for the territorial sea or EFZ before and there has been poor compliance in upholding conditions of the licence, and there has been no improvement in compliance after being in receipt of enforcement actions to remedy the breach/offences.

## 14. Data and Reporting Requirements

- 14.1 Conservation measures will be attached to fishing licences, including those that protect unique, natural environments and species. As part of monitoring these measures data collection in the form of catch, effort, and related biological and environmental information will be sought through licence holders and SHG staff.
- 14.2 As UKOT member of ICCAT, St Helena is therefore required to report to the ICCAT Secretariat with relevant fisheries statistics and data on ICCAT species. Provision of such data by vessels fishing through St Helena licences is a mandatory condition of the granting of a licence in order to meet St Helena's fisheries management and annual reporting obligations to ICCAT. All relevant data forms necessary to support fisheries data collection by licence holders will be provided by the Fisheries and Marine Sections.
- 14.3 The CFO reserves the right to place an Observer approved by the CFO, on a fishing vessel at the expense of the licence holder or SHG (for payment of salary and food for the period of the fishing trip) for scientific or general observer requirements to determine compliance with the conditions of a fishing licence. On the back of data collected by an Observer and any broader scientific activity undertaken, SHG will be able to inform decision-making on compliance with fishing licence conditions and the future management of the Island's fisheries through reviews of quotas, catch limits, and conservation measures, to ensure that fishing activities are conducted sustainably.
- 14.4 Inshore fishing involves day fishing for fishing vessels and their crews and no formal vessel monitoring is required at the current time as no effective VMS/AIS equipment has been able to be identified for use for inshore fishing along St Helena's coastline to date. However, all fishing vessels licenced to fish in the offshore fishery will be required to have a fully functioning vessel monitoring system or automatic information system on board the vessels whilst undertaking fishing activities, to allow vessels to be monitored by the Fisheries Section.

## 15. Fish Aggregating Devices

- 15.1 Anchored fish aggregating devices (FADs) only may be deployed in St Helena's territorial sea and EFZ for the purpose of aggregating live bait fish for commercial, recreational and sports fishing operations. Requirements for FAD's will need to comply with the St Helena's Fisheries FAD Management Plan.
- 15.2 Written permission in the form of a licence is required from the CFO to place a FAD in the territorial sea and EFZ. An application for permission to place a FAD should be made to the CFO specifying the following key information:
  - a. The intended location, markings and GPS co-ordinates proposed for location.
  - b. Nature and construction material of the device and flotation object(s) to be used.
  - c. The type of FAD - a sub-surface or surface FAD.
  - d. Number of FADs.
  - e. Proposed date of deployment.
  - f. New or replacement FAD.
- 15.3 The CFO may grant or refuse permission for a licence. Where a licence is granted it will be for a specified term subject to such conditions as the CFO may determine. Conditions will be informed by the requirements of the St Helena FAD Management Plan. Where approval to deploy FADs is given, a licence will be conditional on a number of factors to include:
  - a. Deployment location.
  - b. FAD numbers.
  - c. FAD type.
  - d. Materials used.
  - e. FAD use and maintenance activities.
  - f. No tying on of vessels to FADs for bait catching or fishing.
  - g. Fishing limits from FADs.
  - h. Reporting requirements for bait and other fish caught within agreed area of a FAD.
  - i. Request by the CFO to remove a FAD.
- 15.4 The operation and maintenance of FADs will be the responsibility of the owners of the FADs - those with a licence to deploy FADs. However, maintenance activities will be encouraged where possible through partnership working between owners and other fishermen who benefit from the FADs.

FADs will not be set at locations of key navigational routes for fishing and shipping traffic. Co-ordinates where FADs are deployed shall be published by the CFO as 'Notice to Fishermen and Mariners' information as it relates to navigational safety

requirements.

- 15.5 FADs will be prohibited from all waters inside 50 metres from the Island's coastline and any other area that may from time to time be declared to be a closed area for FADs under Fisheries Regulations.

## 16. COMMERCIAL Fishing Activities

- 16.1 This type of licence may be issued under the Fisheries Ordinance to allow the licensee to pursue a commercial fishing venture to supply pelagic and ground fish species. Under this form of licence, the catch should first be offered for sale to a registered fish processing facility.
- 16.2 Two types of licence will be implemented: **Inshore and Offshore.**

### **Inshore Licence**

- 16.3 The inshore fishery will be fished only by the St Helenian inshore fleet as there is capacity to fish this fishery and it supports the livelihoods of St Helenian fishermen. Access by foreign fishing vessels inshore will only be considered where it is clearly demonstrable that the inshore St Helenian fleet cannot meet this capacity, and would follow a similar approach set out in 16.9-16.12.
- 16.4 The CFO may give consideration to the following key criteria when considering an application for this type of licence:
- whether the applicant's or proposed vessel crew's primary job is that of fisherman;
  - the applicant's or proposed crew's availability to fish on a regular basis to ensure the licenced vessel contributes to catch throughputs required for a viable fishing industry;
  - whether the applicant has been previously engaged in the fishing industry as a licence holder, or as a crew member of a licenced fishing vessel and related fishing experience;
  - whether the applicant is able to demonstrate a genuine commitment to the fishing industry in St Helena.

### Eligible Fish Species to be Caught, Quota and Size Restrictions

- 16.5 Fish species able to be caught, quotas and size restrictions under a commercial inshore licence type are provided at **Annex 1.**

### Licencing Conditions

- 16.6 Typically, an inshore commercial licence will specify:
- the nautical mile range covered by the licence;
  - that fishing privilege is granted in the name of the licence holder and fishing vessel to be used for fishing;

- the licence is subject to variation, suspension and/or revocation by the CFO.
- fishing method related conditions;
- the CFO reserves the right to impose stop-fishing orders on this licence to prohibit the landing of certain species of fish for any defined period of time;
- species allowed to be harvested, where (the authorised area of operation), when (fishing season), how (the type of gear to be used);
- how much is able to be taken by species (quota) and any fish size limits;
- the use to which the fish taken may be put;
- no use of nets for fishing other than a small bait net or hand net to
- land fish; data collection and reporting requirements;
- health and safety conditions;
- conditions regarding care for the marine environment and reporting pollution incidents; and
- reporting of non-compliance with fishing licencing policy.

### **Offshore Licence**

#### a. St Helenian Fishing Vessels:

#### Eligible Fish Species, Quota and Fish Size Restrictions

16.7 Fish species able to be caught and related quotas under a commercial offshore licence type are provided at **Annex 1**.

#### Licencing Conditions

16.8 An offshore commercial licence for a St Helenian vessel will specify:

- the fishing zone covered by the licence;
- that fishing privilege is granted in the name of the licence holder and for a specified and named vessel;
- the licence is subject to variation, suspension and/or revocation by the CFO;
- fishing method related conditions;
- the CFO reserves the right to impose stop-fishing orders on this licence to prohibit the landing of certain species of fish for any defined period of time;
- what species is permitted to be harvested, where (area of operation), when (fishing season) and how (the type of gear to be used);
- how much is able to be taken (quota) and any fish size limits;
- compliance with ICCAT measures;

- the requirement for operation of a fully functioning Automatic Identification System (AIS) on board so that the vessel is able to continually transmit its position whilst present in St Helena's fisheries;
- the requirement for registration with ICCAT Secretariat if using a vessel with a length of 20 metres and above;
- collection of specific data or contribution to scientific research with the fishery;
- the manner of submitting catch and fishing data;
- health and safety and appropriate crewing conditions to protect crews human rights;
- data collection and reporting requirements; the
- use to which the fish taken may be put; fish
- landing requirements;
- conditions regarding care for the marine environment and reporting pollution incidents; and
- reporting on illegal fishing activities.

#### b. Foreign Fishing Vessels:

- 16.9 Development of the offshore fishery is an important contributor to achieving the vision for the fisheries sector. Access to offshore fishing opportunities for applicants of foreign owned fishing vessels may be considered where fishing proposals assist local capacity to sustain fish catches for a viable fishing industry. This provision will ensure reasonable opportunity is afforded to the local fishing fleet to become an integral part of the development of the fishing industry, whilst aspiring to achieve a regular throughput on Island of an appropriate scale that promotes and maintains a viable fishing industry for St Helena for the longer term.
- 16.10 The business of a foreign fishing vessel owner must be able through their proposal to demonstrate clear fishing capacity improvement links to St Helena and other assessable and tangible benefits to the Island's fishing industry. In this instance, among the factors which must be considered in addressing the question of likely fishing capacity improvement links are the projected annual number of landings at the Jamestown port, the projected annual tonnage and value of fish to be landed, potential technology transfer, refinement of one by one fishing techniques that may help to increase catch, and potential additional resource information through Seamount experimental fishing.
- 16.11 The fishing capacity provides benefits to the fishing industry may be achieved through an individual venture or a partnership venture with local fishing businesses or fisheries stakeholders. The crewing of the foreign vessel must include a minimum of 2 local fishermen, except where the applicant is able to demonstrate to the CFO that whilst sufficient opportunity has been provided to local fishermen to become crew members, there has not been any suitable interest from local fishermen.

16.12 Foreign fishing vessels will be required to carry an Observer for licence compliance, data collection and reporting requirements (where available locally, otherwise internationally) approved by the CFO and at the expense of the licence holder.

### Eligible Fish Species and Quota

16.13 Fish species able to be caught and related quotas under a commercial licence type are provided in **Annex 1**.

### Licencing Conditions

16.14 An offshore commercial licence for a foreign vessel will specify:

- the fishery covered by the licence;
- details for entering and leaving the fishery;
- details for entering and leaving the fishery;
- that fishing privilege is granted in the name of the licence holder and vessel;
- the licence is subject to variation, suspension and/or revocation by the CFO;
- fishing method related conditions;
- the requirement for a fisheries Observer to be present on board during all fishing trips;
- the CFO reserves the right to impose stop-fishing orders on this licence to prohibit the landing of certain species of fish for any defined period of time;
- what species is allowed to be harvested, where (area of operation), when (fishing season) and how (the type of gear to be used);
- how much is able to be taken (quota) and any fish size limits;
- compliance with ICCAT measures and recommendations;
- the requirement for operation of a fully functioning Vessel Monitoring System (VMS) on board so that the vessel is able to continually transmit its position whilst present in St Helena's fisheries;
- the requirement for registration with ICCAT Secretariat if using a vessel with a length of 20 metres and above;
- collection of specific data or contribution to scientific research with the fishery;
- the manner of submitting catch and fishing data;
- safety and contingency planning;
- data collection and reporting requirements;
- the use to which the fish taken may be put;
- fish landing requirements;
- conditions regarding care for the marine environment and reporting pollution incidents; and
- reporting on illegal fishing activities.

## 17. EXPLORATORY Fishing Activities

- 17.1 This licence may be issued under the Fisheries Ordinance, the purpose of which is mainly to evaluate the distribution, abundance and demography of the target species, leading to an estimate of the fishery's potential yield and appropriate harvest catch levels on the species. Exploratory fishing is precautionary and cannot result in long lasting damage to populations of a species which is vulnerable or listed.
- 17.2 If a fish species is unfished within St Helena's territorial waters and EFZ, and there is interest in determining their sustainable harvesting, the CFO may issue exploratory licences.
- 17.3 In light of this provision, the *Exploring New Fisheries Procedure* will be established to provide the licencing requirements and conditions that must be met and the procedures to follow before a new fishery can be established. A cornerstone of this Guideline is the provision for establishment of a scientific base with which stock responses to fishing pressures can be assessed.
- 17.4 The issue of an exploratory licence to an individual or company does not imply any further commitment by SHG to issue a similar or commercial licence upon expiry of the exploratory licence.
- 17.5 To be eligible to be issued a similar licence upon expiration of an exploratory licence, holders of exploratory licences will be required to meet criteria set out under the above Policy Guideline.

## 18. SPORTS Fishing Activities

- 18.1 This licence is issued under the Fisheries Ordinance, the purpose of which is to enable the licensee to provide sports fishing services to paid clientele to fish for pleasure and the fish able to be landed is for personal consumption and not for sale, or barter.
- 18.2 Licences for sportsfishing activities will include a sports angling licence, a commercial spearfishing licence for pelagic species and a recreational licence for pelagic species.
- 18.3 Where an application is received for a foreign fishing vessel or foreign owned pleasure vessel to undertake sports fishing activities, the application should make clear whether a different service is being proposed for operation to that of existing St Helenian sports fishing services, and how the Island's sports fishing services will benefit as a result; or whether the licence is for personal use only.
- 18.4 When determining whether a licence should be issued to a foreign fishing vessel or foreign owned pleasure vessel, the CFO will give consideration to whether sufficient and adequate capacity exists already amongst local operators to meet the needs and requirements stated in the application. Where it is proven that sufficient capacity exists to meet personal or additional market needs for sports fishing services, and the Island would not significantly benefit from such additional services as proposed in an application, the CFO reserves the right not to approve an application for a licence.

## Catch Limits and Restrictions

Fish species able to be landed and restrictions that relate to species size classes and numbers of each species on each sport fishing trip are shown in **Annex 1**.

## Licencing Conditions

18.5 This type of licence will generally specify the following conditions:

- that fishing privilege is granted in the name of the licence holder;
- the licence is subject to variation, suspension and/or revocation by the CFO;
- the need to keep the vessel adequately insured as a minimum against liability to third parties;
- fishing method related conditions;
- the CFO reserves the right to impose stop-fishing orders on this licence to prohibit the landing of certain species of fish for any defined period of time;
- that no fish caught under a sportfishing licence can be exchanged, sold or used for profit.
- environmental conditions and reporting;
- any health and safety requirements.

### **Specific for Angling:**

- fishing for 'catch and release'
- the species able to be fished, where (the authorised area of operation), when (fishing season), how (gear requirements);
- how much fish is allowed to be landed per vessel per day where fish is not able to be released,
- data collection and reporting requirements.

### **Specific for Spearfishing for Pelagic Species:**

- the period of year when fishing is able to be undertaken during the year;
- the number of spearfishermen able to be used per trip;
- the requirement to carry a local Observer at all times approved by the CFO, for the duration of the spearfishing trips.
- proof of a valid licence for a speargun from the Police Directorate's licencing authority for spearguns which require a licence for its operation;
- the species and number of each species per spearfishermen per day able to be caught, any restricted areas for fishing, and when (fishing season);
- no tying up of vessels to FADS for fishing;
- no spearfishing using scuba equipment;
- safety – safe distances from persons swimming and persons undertaking other forms of fishing, the need for use of diver down safety flags when spearfishing is underway;

- observer requirements;
- data collection requirements.

## 19. RECREATIONAL Fishing Activities

19.1 This form of licence is available for:

- recreational angling using a rod from a vessel in areas eligible for recreational fishing;
- recreational spearfishing for groundfish and pelagic species from a boat or from the shoreline in areas eligible for recreational fishing.

19.2 Traditional rock-fishing will continue without a licence provided it is not done for commercial purposes and this type of fishing will be subject to those restrictions and protections for fish species provided for under the EPO.

### Catch Restrictions

19.3 Fish species and restrictions that relate to species sizes, classes and numbers of each species that may be landed on each recreational fishing trip are provided in **Annex 1**.

### Licencing Conditions

#### **Specific for Angling:**

19.4 This type of licence will specify the following conditions:

- the nautical mile range covered by the licence;
- that fishing privilege is granted in the name of the licence holder;
- the licence is subject to variation, suspension and/or revocation by the CFO; fishing method related conditions;
- what species is allowed to be caught, where (the authorised area of operation), when (fishing season), how (the type of gear to be used);
- how much fish is allowed to be taken per person per day;
- no tying up of vessels to FADS for fishing;
- the CFO reserves the right to impose stop-fishing orders on this licence to prohibit the landing of certain species of fish for any defined period of time;
- no fish caught under this licence can be exchanged or sold for profit;
- environmental conditions and reporting;
- any health and safety requirements.

### **Specific for Spearfishing of Groundfish Species:**

- A vessel licenced for recreational fishing may be required to carry a local Observer (where one is available) approved by the CFO, and at the expense of the licence holder, if found to be necessary for licencing compliance needs.
- that fishing privilege is granted in the name of the licence holder;
- the licence is subject to variation, suspension and/or revocation by the CFO;
- what species is allowed to be caught, where (the authorised area of operation), when (fishing season);
- no tying up of vessels to FADS for fishing;
- the CFO reserves the right to impose stop-fishing orders on this licence to prohibit the landing of certain species of fish for any defined period of time;
- that no fish caught under a recreational licence can be exchanged or sold or used in commercial entities such as eateries;
- environmental conditions and reporting; any health and safety requirements
- proof of a valid licence for a speargun from the Police Directorate's licencing authority where such is required for this form of fishing;
- no spearfishing using scuba equipment;
- safety – safe distances from persons swimming and persons undertaking other forms of fishing;
- the need for use of diver down safety flags when spearfishing is underway;
- data collection requirements.

## **20. Capacity of St Helena to Assist in Cases of Emergency to Support Licenced Fishing Vessels in the EFZ**

- 20.1 St Helena has a dedicated sea rescue service that is only able to provide a sea rescue capability to reach up to 60 nm from its coastline. There is no duty on SHG to provide a sea rescue because it issues a fishing licence to fish within its fisheries limits of 200 nm from the Island.
- 20.2 The Island has a small number of fishing vessels with the capability to reach the Seamounts and the Island's fisheries limits.
- 20.3 A private telecommunications company, SURE South Atlantic, has the capability to communicate with ships passing through or near St Helena's EFZ to request assistance in cases of emergency. However, emergency assistance to fishing vessels from such vessels would depend on the good will of a ship's company to provide such assistance, under the UNCLOS Convention.

## Licencing Compliance and Enforcement System

- 21.1 Non-compliance with fisheries law and licencing permissions and conditions of licences constitutes an offence. A compliance and enforcement system will be implemented in support of fisheries management and extend to licencing of fishing activities.
- 21.2 A Marine Enforcement Officer will work with a small team of Fisheries Protection Officers (FPOs) appointed by the Governor, to assist the CFO with the enforcement of fisheries licencing and other matters related to fisheries management and protection. Officers appointed as FPOs will include:
- Any Marine Enforcement Officer;
  - A Police Officer;
  - Harbour Master;
  - Deputy Harbour Master;
  - Marine Conservation Officer.
- 21.3 Licencing enforcement is a series of steps employed as options to respond to non-compliance. Responses will include:
- a. A warning letter.
  - b. Administrative penalties.
  - c. Suspension or revocation of licence.
  - d. Court proceedings.
- 21.4 These are not a prescribed or mandated order; the CFO will determine a risk-based approach for the non-compliance and the appropriate enforcement response. Steps may be eliminated where the situation warrants. For example, higher risk consequences for the fishery or wider marine environment requiring immediate compliance would not be responded to with advisory letters.

### **Warning Letter**

- 21.5 An advisory letter outlines the legislation/licence requirements, identifies the area of non-compliance and advises the licensee of next steps and how to achieve compliance, the consequences of ongoing non-compliance and compels compliance. A warning letter is considered an appropriate response when all of the following criteria are met:
- The incident of non-compliance is considered minor;
  - The effect or potential adverse effect as a result of the non-compliance is considered minor;
  - Adequate steps to remedy or minimize the non-compliance or its effects have been taken;
  - There is an expectation that the warning letter will sufficiently deter future non-compliant behaviour.

## **Administrative Penalties for Minor Offences**

- 21.6 The use of Administrative penalties will be applied where a warning letter has failed to deter non-compliant behaviour.
- 21.7 The CFO, Deputy CFO and Marine Enforcement Officer, will be the officers authorised by the Governor to issue administrative penalties for relevant licencing offences.
- 21.8 There will be occasions when an offender commits the same minor category of offence on a second occasion. If this second offence is committed within a year of the first offence then it will be acceptable to issue a penalty, and the principle of 'doubling up' will be applied whereby the level of penalty will be double that of the first offence, providing the level of penalty remains within the overall maximum provided for in the Fisheries Ordinance.
- 21.9 A second offence of a more serious category of offence will trigger a referral to the Court. A third offence of either minor or a more serious category will be referred to the Court. In both of these cases for referral to the Court, it will be done on the basis of evidence that previous enforcement measures have failed to modify offending behaviour and have the desired effect, and that prosecution is the most appropriate course of action.

## **Court Proceedings**

- 21.10 Where compliance of licencing provisions cannot be achieved through other forms of enforcement mentioned earlier, or for the more serious categories of licencing offences, conviction of a fishing offence will be sought through the Courts. In addition to any other penalty, the court may order that a licence is forfeited, varied, conditions amended; and or the licensee is disqualified from holding a licence for a period not exceeding 3 years.

## **Suspension or Revocation of Licence**

- 21.11 The Fisheries Ordinance provides the CFO and the Courts with powers to vary, suspend or revoke a licence as deemed appropriate, where it is deemed necessary to regulate fishing and includes where a licensee is convicted of a fishing offence. This action results in the individual/business being unable to conduct previously authorised fishing activity. This enforcement is serious as the business/individual may be required to terminate operations. When a licence has been previously issued, suspension or cancellation will be considered under the following circumstances:
- There is a serious situation of non-compliance;
  - The non-compliance caused, or has the potential to cause, a significant adverse effect;
  - There have been multiple repeat offences for which other enforcement responses have been ineffective;
  - The suspension or cancellation serves the public and fishing industry interest.
  - Conviction of a fishing offence through the Courts.

## 22. Appeal Against Licencing Decisions

- 22.1 Participants in St Helena's fisheries who are aggrieved by a decision made by Governor in Council or the CFO in relation to the grant of a licence or permission, or a decision to attach a condition to a licence or permission, or to vary suspend or revoke a licence or permission, may appeal to the Chief Magistrate.
- 22.2 Reasons for appealing a licencing decision must relate to an alleged incorrect application of licencing policy, or extenuating circumstances. Appeals on whether policy is reasonable or appropriate do not fall within the purview of the licencing appeal system.
- 22.3 Appeal requests must be lodged by giving notice in writing within 14 days from the date the applicant was notified of the licencing decision.
- 22.4 The Chief Magistrate may uphold the decision of the Governor in Council or CFO or amend the decision and substitute its own decision, or request that the Governor in Council or CFO reconsiders their decision.
- 22.5 The Chief Magistrate shall not uphold the appeal and amend the decision of the Governor in Council or CFO, unless it can be established that with respect to the relevant decision, the facts are such that had the Governor in Council or CFO been aware of them, they could not reasonably have made the decision they made.

## 23. Administration of Licencing

- 23.1 Procedures covering the application, review of applications and licencing process are covered in the *Fishing Licencing Procedures* document.
- 23.2 Persons interested in undertaking fishing activities in St Helena are advised that no financial commitments should be entered into unless a licence offer is received from the CFO, the applicant is in a position to accept the terms of the licence offer, and to comply with all of the specified requirements.

## 24. Policy Review

- 24.1 This document is not intended to be static but rather will be reviewed on an ongoing basis and updated accordingly as the Government deems appropriate, to reflect the best interests of the development of fisheries management and licencing. The ENRP Directorate will provide opportunities for key stakeholder input and public consultation where necessary, in the review and development of licencing policy and guidelines.
- 24.2 The CFO will inform licence holders directly affected by a change in the licencing policy as well as other fisheries stakeholders.

