Structural Adjustment Review Committee (SARC)

Chair's Summary

12th Meeting

MLC Building

Martin Place, Sydney

25 - 27 June 2014

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Introduction

The SARC met for three days in Sydney, 25-27 June 2014. This summary covers commentary from the SARC on the major issues raised and discussed at that meeting.

The SARC remains very aware of the concerns of fisherman and particularly those resulting from the 'worst case' assumptions made by a small number of shareholders and distributed widely. We confirm our view and intention that the linkage options recommended should not unduly impact on active fishers.

Given that the processing of the submissions is not yet complete, the SARC spent much of the meeting considering the impacts of the linkage options at the share class level to gain a better understanding of how individual businesses would be affected. It is emphasised that no decision has been made on the form of linkage to be recommended to the Minister.

The form of the exit grant was also discussed.

Issue 12.1 Ministerial press release

The Committee noted the press release from Minister Hodgkinson of the 18th June, which contained three major elements:

i) more time to tailor options and consult with industry on the Commercial Fisheries Reform Program;

ii) a three-year cap on commercial fisheries management charges, to reduce the financial burden on shareholders during the reform process and provide greater certainty; and

iii) consideration to be given to engaging an independent study to analyse the reform package, particularly relating to share linkage, for the consideration of SARC.

Minister Hodgkinson noted the concerns of commercial and recreational fishers, and Members of Parliament, in relation to some of the options provided in the discussion papers. Issue ii) is self-explanatory and issues i) and iii) are considered in more detail below.

Issue 12.2 Economic analysis of the NSW commercial fisheries reform package

The SARC discussed the proposed independent economic study, which will help inform SARC's consideration of share linkage options. At the request of DPI, the SARC has prepared a Terms of Reference for this study. The Terms of Reference directly respond to the issues raised in the public submissions and include: specific analysis of the cost benefit of the reform program on shareholders in each fishery; the likely impact across share classes; and the efficacy of exit grant mechanism to remove latent effort and enable active fishers to obtain additional shares when and if required. The consultants will report directly to the SARC.

Issue 12.3 Submissions

To date, the Department has received a total of 1,178 submissions in response to the release of the options papers on share linkages. Of these:

- 699 submission forms were submitted by commercial fishers (noting that these do not represent 699 individuals, as FB owners hold multiple share classes and will have used the relevant form for each share class);
- 47 letters were submitted by commercial fishers;
- 432 submission forms were received from the public.

In addition, a number of form letters and petitions were also received including:

- 250 ‘Stop the nets’ campaign submissions
- 280 signatures a change.org petition to abandon the reform program
- 24 petition submissions from individuals opposed to netting in the Coffs Harbour estuaries
- 28 from individuals opposed to commercial fishing in Lake Illawarra

Numbers will not be finalised until all data is entered.

The Department is continuing to process these submissions and the SARC expects that this analysis will be available to it for consideration, prior to the SARC’s next meeting in late July. A summary will be available on the website soon thereafter. The SARC will make further comments about the issues raised in the submissions following that meeting.

The SARC has, however, already identified from its preliminary consideration of the submissions, that there remains a significant level of misunderstanding about the nature and implications of share linkage. The extended timeframe for the reform program (see Issue 12.4), including provision for more targeted consultation, is a direct response to that issue and to allow time for consideration and comment on the draft SARC recommendations on linkage.

Issue 12.4 New Timeframe

As noted above, the Minister has agreed to additional time for consideration of submissions, independent specific economic analysis of the fisheries to inform linkage recommendations and for additional consultation on the options.

Many submissions had, in particular, called for additional consultation. The Minister’s decision to extend the timeframe for the reform program will enable this (see Issue 12.5). However, the SARC has been informed that a number of stakeholders are disappointed that the timeframe, particularly for the exit grant, has been delayed. The Department’s office in Nowra has received between 75 and 100 calls in recent weeks expressing concern over the delay.

At this stage the SARC is unable to provide clear advice on the revised timetable for implementation. The selection by the Department of a consultant to undertake the external economic analysis (Issue 12.2) and the conduct of the analysis will, in the SARC’s view, take at least four months. While the SARC can continue its own analysis of the differential impacts of share linkage options on fishing businesses and ways to address these where necessary, it cannot develop final recommendations on share linkage until it is in receipt of the external economic analysis. It is the SARC’s hope that it will be able to commence targeted consultation on its preferred share linkage options by late November; however, this is contingent upon the Department’s advice on the timing of the economic consultancy.

We appreciate and regret that this uncertainty will create difficulties for some operators and we hope to be in a better position to confirm a revised timeline for implementation of the reform program, including the exit grant, after our next meeting in late July. In the final analysis, we echo the comment of the Minister *“This is a reform for the long term and it is important we get it right.”*

Issue 12.5 Targeted consultation

The SARC acknowledges that, despite the best efforts of all involved, the consultation process for the reform program has not achieved the level of understanding of share linkage proposals or the exit grant program that was hoped for.

The SARC recognises that additional consultation is required. It is proposed that, after completion of the economic analysis (see Issue 12.2) and the SARC’s consideration of that analysis, and taking into account the submissions made in response to the options papers, the SARC will develop a preferred share linkage option for each share class. The SARC intends to reconvene, and extend where necessary, some or all of the share linkage working groups and to bring the preferred option to each group for discussion with the SARC. Further, the SARC wishes to ensure that existing and recently formed industry bodies are engaged effectively in this consultation process. Following consultation on these options the SARC will make a final recommendation to the Minister. SARC will also engage directly with the working groups and industry organisations, as appropriate.

In the interim, the SARC encourages operators to take advantage of the extended timeframe to ensure that they understand the options for their fishery and what impact they may have on their individual operations. The SARC believes that one-on-one discussions between operators and fishery managers are likely to be the most effective way to achieve this and encourages fishers to be proactive in approaching their manager to seek further advice.

Issue 12.6 Netting proposals

The options papers, and in particular the paper for the Estuary General Fishery, noted an extensive range of fisheries closures identified by shareholders as having potential for opening to commercial fishing following implementation of the Reform. The Department or the SARC did not formulate or promote the adoption of these proposals.

The proposals resulted in strong opposition from the recreational sector to the entire reform process, as they were seen by many as an integral and almost 'automatic' result of the Reform, which is not the case. This view is both understandable and unfortunate, since the main purpose of the reform remains to secure the long-term sustainability of the resource, the economic viability of the industry, and improved strength, value and flexibility of shareholders' access rights. The SARC believes that discussing such a wide and controversial range of changes to these access arrangements at this time would not be productive.

The SARC recommends that the proposals to introduce commercial mesh netting into estuaries where it is currently not permitted be removed from the Commercial Fisheries Reform agenda.

Issue 12.7 Linkage options vs. proposals to reduce input controls

The SARC notes that some submissions have expressed concern, in addition to those voiced in 12.6 above, about potential changes to current restrictions put forward in the public consultation papers. These potential changes are not linkage options. These proposals were put forward by working groups and concerned the *potential* removal of some input restrictions *provided* there were stronger linkage of shares. Once linkage is in place, more detailed consideration of the restrictions, which could be removed would need to be undertaken by DPI in consultation with stakeholders.

Issue 12.8 Current vs potential access

A number of submissions have raised the issue of proposed reforms reducing access to fisheries, particularly in circumstances where fishing businesses rely on access to a number of fisheries at different times and places, as fishing conditions change. Two key objectives of the Reform are to: i) in as far as it is possible, maintain current access to fisheries where fishers have derived most of their catch, and ii) reduce the costs to active fishers of any adjustment to shareholdings, where it is necessary to obtain additional shares. This should minimise impact on individual businesses. However, to gain meaningful value for shares and meet the other objectives of the Reform, many fishers may not be able to maintain access to fisheries where they have little or no activity. In other words, it would be inconsistent with the Reform objectives if all fishers sought to maintain the current levels of *potential* access across *all* fisheries in which they may hold shares, since it is that level of potential access that has led to the current situation. As a result, fishers may have to make a choice about:

i) retaining access to those current fisheries that they rely on for income; and
ii) surrendering, through share sales, access to those fisheries where they have little or no activity, against the chance that they may want to access them at some point.

The sale of shares referred to in ii) above to those that require them could be used to fund any necessary additional investment of shares in their 'primary' fisheries.

Issue 12.9 MFAC presentation

The SARC made a presentation to the Ministerial Fisheries Advisory Council on the rationale for, and progress with, the Reform. The SARC requested support for a clear signal on the cost recovery principle outlined in the last Chair's Summary, i.e. that a base cost covering a proportion of the fixed cost of fisheries management within a share class or group of share classes, be levied equally across all shareholders irrespective of the level of shareholdings. A variable cost, proportional to shareholding levels will be applied on top of the base charge.

A number of key issues concerning the Reform were raised by the aboriginal, recreational and environmental members of MFAC.

Issue 12.10 Use of catch history under certain circumstances

The SARC has provided previous advice regarding the use of catch history under certain circumstances (see Chair's Summary Issue 7.6 8-9 January 2014; Section 5.9 Chair's Summary 16-17 September 2013). The SARC reiterates this advice noting that the SARC will consider new share classes provided specific criteria are met. Such criteria would include:

a. That a very small number of shareholdings in the existing share class account for the bulk of the catch, potentially placing an unacceptable and unintended substantial financial burden on these fishing businesses which would be required to purchase a large amount of shares to continue their fishing operation with significant impacts on their economic viability;
b. no other suitable linkage options and associated measures are available or feasible for the existing share class to minimise the financial burden on those operators;
c. the benefits of moving to a new share class clearly outweigh the costs; and
d. the proposed new share class must have the strongest form of share linkage feasible (i.e. a catch quota or if that is not feasible, a very tight effort quota).

Issue 12.11 Transition to linkage

The SARC has recognised in previous meeting summaries the need for flexibility to address the special circumstances of some fisheries. In particular, the SARC has recommended delay in the introduction of some share linkages where adequate justification is provided, in order to facilitate restructuring. The SARC has also previously acknowledged that the nature and implementation of share linkages may vary from fishery to fishery. The SARC continues to support these approaches.

However, the SARC notes that some stakeholders have suggested delays of between 5 and 10 years for implementation of share linkage. In general, the SARC believes that such an implementation timeframe would risk achievement of the objectives of the reform package.

Issue 12.13 Logbook data

The SARC has been made aware that for some fisheries, there is a lack of confidence in accuracy of reported logbook data and that this data should not be accepted at face value. It has been further suggested that some/further allowance should be made for these inaccuracies in considering linkage arrangements. The SARC is only able to provide advice on the data presented by the Department, which reflects the information recorded in official logbooks. It has been stated by the PFA EO that she had been advised that some fishers did not understand or misunderstood their responsibility to complete logbooks accurately, particularly the need to report fishing days, rather than aggregating catch from a number of fishing days and then reporting a single day (the day of landing). This is of concern to stock assessments based on CPUE as raised by the SARC earlier, and may have an effect on effort-based ITCALs, noting that ITCALs have already been increased so there is very limited scope for further increases.