

Structural Adjustment Review Committee (SARC)

5th Meeting

Boardroom, 17th Floor, 227 Elizabeth Street, Sydney

16-17 September 2013

Chair's Summary

Table of Contents

Issue 5.1:	Reform timeline	3
Issue 5.2:	Regional management	4
Issue 5.3:	Diversification	4
Issue 5.4:	Reducing the financial burden	5
Issue 5.5:	Cost Recovery Policy	5
Issue 5.6:	Level of management charges	6
Issue 5.7:	Exit grant process	6
Issue 5.8:	Staged approach to implementation of share linkage for some share classes	6
Issue 5.9:	New classes of shares for some fisheries	7
Issue 5.10:	Use of recent participation in the development of share linkages	8
Issue 5.11:	Approaches to allocation for any new class of share	8
Issue 5.12:	Facilitating share trading	9
Issue 5.13:	Setting Interim total commercial access levels (ITCALs)	9
Issue 5.14:	Deferring the commencement of interim total commercial access levels (ITCALs)	10
Issue 5.15:	Consideration of Concessional Zone permits in the Share Linkage Process	10
Issue 5.16:	Removal of fishing businesses	10
Issue 5.17:	Comparing linkages	11
Issue 5.18:	Social issues	11
Issue 5.19:	Concerns about representation on SARC Process	11
Issue 5.20:	Detail required in Working Group outcomes reports	12

Structural Adjustment Review Committee (SARC)
5th Meeting
Boardroom, 17th Floor, 227 Elizabeth Street, Sydney
16-17 September 2013

Chair's Summary

The SARC has been providing updates on its work to date by posting copies of the record on the DPI website. For the most part, the fisheries reform process has been taken up with preparatory work, consultation, development of the mechanism for administering the Exit Grant Program and the first round of Share Linkage Working Groups (WGs). The SARC has provided overview and general input into this process.

As the fisheries reform process has become more advanced, the SARC feels that it is essential to report on specific issues in a more detailed manner and provide explicit advice on key areas of significance and concern. The issues, which have been raised in the SARC, have been identified by industry, WGs, the Department and SARC members themselves.

This summary and advice in the form of recommendations will be provided in the first instance to the Executive Director Fisheries. It is further recommended that the Summary be:

- used as a paper to inform discussions by the WGs,
- placed on the NSW Fisheries Reform website; and
- circulated via established industry channels.

Feedback on the recommendations is welcome and this summary will be considered at next or future meetings of the SARC. In this way it is hoped to establish a useful additional dialogue between the SARC and key stakeholders on key issues.

Issue 5.1: Reform timeline

The SARC has reviewed progress in the implementation of the Reform Program. Considering the complexity involved, and the on-going work of the Department, the SARC believes considerable progress has been made. The SARC has considered feedback from the WGs, other industry (through PFA) and the Department on the nature and extent of consultation required and closely reviewed time frames necessary for the various elements of the Reform Program. On the basis of this review the SARC has concluded that the aim of implementing the share linkage program by 1 January 2015 is now overly ambitious. The SARC does not believe that this deadline is achievable without compromising the success of the Reform Program. The SARC believes that the success of the Reform Program relies heavily on:

- consultation with industry about the exit grant program and share linkage options
- consultation with the recreational sector and the broader community about proposals to remove certain management restrictions as a result of the opportunities for rationalisation of the range of management measures in place provided by the adoption of strong share linkage options such as catch and effort quotas

The SARC is also acutely aware of the need to avoid utilising the December-January period for consultation. To consult during this period would not only risk inadequate feedback but also accusations of deliberately seeking to minimise feedback.

Confidence in the algorithm (formula) underlying the Exit Grant Program is crucial to the success of the Program and to the Reform Program as a whole. The SARC is very happy with the progress to date on the algorithm and with the initial feedback received from external reviewers on the process being developed. The SARC believes that it is important that appropriate time is available for finalisation, testing and further external review of the algorithm. This will not be available if the existing indicative timeline is adhered to.

The SARC is very aware of the direction of Cabinet and the Minister to commence the linkage arrangements by the end of 2014. However, we believe it is our responsibility to identify the potential risks of adhering to this deadline. While the provision of additional resources to the Department may provide some added scope to meet the existing indicative timeframe, the SARC is of the view that time is the main constraint.

Advice:

SARC **recommends** consideration of a modified timeframe for development of the linkage options, total catch and effort levels and details surrounding the exit grant process, to provide sufficient opportunity for consultation.

Issue 5.2: Regional management

The number of share classes in NSW Fisheries and the complexity and cost associated with them is not optimal. However, it is recognised that spatial management through the current regionally-based share class structure is a key fisheries management tool. Its primary purpose is to prevent current levels of overcapacity from transferring to high-catch areas in other regions, which would further reduce profitability, and in some cases, lead to localised depletion.

It appears from feedback received from Working Groups and the summaries from the first round of meetings, that there is a view that the fisheries reform agenda includes the removal of some of these spatial arrangements/share classes (as one of a number of options). This view is creating concern and uncertainty among industry.

While the amalgamation of share classes was envisaged and recommended for consideration by the original Steven's Review in 2007, the more recent Independent Review of NSW Commercial Fisheries Policy, Management and Administration (the Independent Review), and the Government response to it, did not.

There are, however, likely to be benefits from future amalgamation of some share classes, particularly in the reduction of costs.

Advice:

Given the complexity of the Reform Program currently being undertaken and the level of change that will be incurred it is **recommended** that fishers be reassured that the current, regionally-based share structure will remain in place at least until the current Reform Program has been completed and has had a suitable period of stability.

Issue 5.3: Diversification

Feedback from the Chairs of the Working Groups and PFA indicates that there is a view in industry that the Reform Program is somehow aimed at forcing individuals to specialise in one fishery. This may not be appropriate due to the need to take account of seasonal and

other operational and fishery characteristics, which require access to a number of share classes.

Reducing diversification is not an objective of the Reform. There is, however, a clear need to better match the level of capacity to resource productivity in terms of total catch or effort. This will avoid the current trend towards economic overfishing of particular resources during times of high abundance, allow individuals to tailor their shareholdings to best meet the needs of their businesses and strengthen the value of shares.

Advice

The SARC **recommends** that fishers be reassured that the reduction of diversification is not a specific objective of the programme.

Issue 5.4: Reducing the financial burden

The SARC is aware that there is a potential for a significant financial burden on shareholders who have to obtain significant amounts of shares to operate in a fishery and remain viable. To some extent, this will be dealt with under the exit grant tender process, which considers the level of distortion.

Fishers will have to make their own decisions based on individual circumstances. Consequently, some fishers may have access to funding and be able and willing to make the necessary investment, while others will wish to remain in the fishery but not be able to afford to do so.

SARC notes that there are a range of mechanisms available to reduce the potential financial burden and facilitate restructuring which have been recommended for further consideration:

- a) Deferral of further fee increases until 1/7/2016 (see Issue 5.6:).
- b) A 12 month delay in the introduction of some ITCALs, where adequate justification is provided, to allow businesses to restructure i.e. Jan 2016 (see Issue **Error! Reference source not found.**).
- c) Adoption of some flexibility in the approach to implementation of share linkages to reflect the special circumstances of some fisheries (See Issues 5.8 to 5.11).

The SARC also **recommends** that the Department investigate any financial assistance that may be available to operators from programs operated by the Rural Assistance Authority and the Small Business portfolio.

Issue 5.5: Cost Recovery Policy

The current uncertainty surrounding future cost recovery policy is making future investment decisions difficult to the point where it is likely to impede the success of the Reform Program.

Advice:

The SARC **recommends** that in order to promote restructuring and allow time for the MFAC to oversee the development of a comprehensive cost recovery policy, that management charges be capped at current levels for three years i.e. until June 30th 2016. This assumes that the new cost recovery system will be developed by July 1 2015, allowing operators 12 months to adjust their operations in light of the new cost recovery arrangements, before the full cost recovery system is implemented on July 1 2016.

Issue 5.6: Level of management charges

The Government supported an increase in management charges, initially in the form of a flat charge per share class, irrespective of the level of shareholding or catch, to recover a higher proportion of management costs and facilitate the fisheries Reform Program. This action, which was implemented from July 2013, was considered as a transitional arrangement between the current 'per fishery' fee structure to a 'per share' structure once shares are directly linked to catch or effort. Further, the increase aimed to reduce the level of subsidy historically provided by government, which has encouraged the ongoing existence of latent effort.

Feedback has indicated that some shareholders consider the recent increase (to approximately 40% of the total cost) to be excessive. Other shareholders, including some in fisheries where the distortion (i.e. a small number of operators responsible for a high proportion of the catch) is greatest, consider the increase to be insufficient to drive the necessary level of adjustment/remove inactive shares.

Advice:

The SARC accepts the rationale behind the recent increase in fees.

In relation to the suggestion by some members of industry/Working Groups that fees should be increased further as a primary tool to remove latent effort the SARC **recommends** that fee levels should not be increased beyond that already introduced on the grounds that it was considered necessary to reduce the level of subsidy historically provided by government. It considers that further increases in the use of fees as a primary mechanism to drive restructure in the industry without a clear link to services may be inappropriate.

Issue 5.7: Exit grant process

The SARC received a comprehensive briefing from DPI on the proposed exit grant evaluation process, including progress on the development of the algorithm that will be included in the evaluation which includes ways to determine value for money, factors driving ranking (distortion, value of production and fishing business removal) and options for weighting between ranking factors and values to be assigned to fishing business. The SARC was pleased to note that the lessons learned from the Commonwealth fisheries structural adjustment programme will be applied to NSW, and that DPI staff are in close contact with AFMA, DAFF and ABARE staff in this regard.

Advice: The SARC **recommends** that the proposed algorithm and associated decision rules, which will be used to allocate exit grants should be thoroughly tested, peer reviewed by internal and external authorities familiar with primary industry structural adjustment and exit grant programmes.

Issue 5.8: Staged approach to implementation of share linkage for some share classes

Some Working Groups are concerned that the significant disparity between shareholdings and catch/effort levels and the tight timeframe for implementation will preclude the acceptance of strong share linkage options such as catch and effort quota in the short term, despite the proposed exit grant process which will facilitate adjustment. An anticipated

consequence of this scenario is a tendency to default to weaker forms of linkage such as endorsement numbers (i.e. minimum shareholding requirements).

A potential solution identified by the Working Groups is to extend the timeframe for implementing stronger forms of linkage and to manage (i.e. reduce) endorsement numbers in the meantime by increasing the minimum shareholding requirements. This would only be applied for some share classes where it could be well justified. SARC considers that an extended time frame of 10 years, as is the case with the Ocean Trawl Fishery, would not be advisable and SARC would envisage a much shorter period.

Advice

SARC **recommends** that staged implementation of share linkage, with reliance in the short-term on increasing minimum shareholdings, should continue to be investigated by the working groups as an option in exceptional circumstances and where it can clearly be justified. The SARC notes this option may drive up the prices of shares in those share classes and will lengthen the period of uncertainty for operators.

Issue 5.9: New classes of shares for some fisheries

The Working Groups have identified interest in allocating new classes of shares:

- To provide for the quota management of species that are one of many species taken in the share classes concerned;
- To provide for catch quota management of species taken across numerous share classes and for the full transferability of rights (i.e. quota shares and the quota itself) between participants in those sectors. For example: red spot whiting in the Ocean Trawl Fishery; kingfish in the Ocean Trap & Line Fishery (current shares in these fisheries have no relationship to catch of such species and could not be used to apply a catch quota without causing major inequity); and
- To provide for effort quotas that apply across multiple share classes and for the full transferability of rights (i.e. quota shares and the quota itself) between participants in those sectors.

Any new 'species shares' or 'effort shares' would be in addition to the shares currently allocated. These current shares would still govern the methods used and waters fished, but they would not govern the amount of catch that could be taken (or effort that could be expended in the case of an effort quota).

The Independent Review did not contemplate the creation of new classes of shares – over and above the existing share classes. However, the government response (P.8) did canvass the possibility of new share classes being established to “implement a catch quota for a species caught in multiple gears across multiple fisheries.”

Advice

SARC **recommends** that allocation of new species or effort share classes should continue to be investigated by the working groups as an option in exceptional circumstances and where it can clearly be justified.

Issue 5.10: Use of recent participation in the development of share linkages

Working Groups for some fisheries have proposed that recent participation (i.e. catch history post the establishment of share management) be used to determine the allocation of shares in any new quota-based share class. These proposals are largely intended to address the need for fishers responsible for a large proportion of the catch to acquire significant numbers of new shares in order to maintain effort or catches at their current level.

The SARC has discussed the potential use of recent catch history on a number of occasions. The SARC has formed the view, consistent with that of the authors of the Independent Review, that recent participation/catch history was used in allocating the existing shares in NSW fisheries (albeit at a crude level). To incorporate recent participation to determine the allocation of new shares under a share-linkage reform is likely, in the SARC's view, to significantly change the nature and value of existing fishing rights, which could have legal ramifications. This interpretation may preclude the use of recent participation. There are additional difficulties with the use of catch history, as outlined in the Independent Review.

The SARC acknowledges, however, that the share linkage process, depending on how it is implemented, may impose a substantial disproportionate financial burden on some operators. Measures to address this issue are discussed in Issue 5.4.

Advice: The SARC **recommends** that DPI seek legal advice on the implications of including recent participation in the share linkage process and that the working groups be advised as soon as possible whether recent participation is a factor that will be considered in any new allocation process.

Issue 5.11: Approaches to allocation for any new class of share

Other novel approaches to the allocation new shares for new classes of shares have also been discussed by the Working Groups. These approaches have been suggested in response to the disparity between shareholdings and some shareholders' catches and where (in a majority of such cases) there is no direct or close link between the shares and the species concerned.

One approach involves a process where existing shareholders would be required to make a once-off nomination of their existing shares towards shares in a new share class or share classes provided they had taken these species (see Issue 5.9). This would be for the purpose of implementing a catch quota or refined effort quota. For **example** in the case of the hand gathering fishery, **if** quotas were to apply to several species such as pippies, yabbies cockles and worms, a new share class (species based shares) could be formed for each species, and all existing hand gathering shareholders would choose which of their existing shares would be nominated against these new share classes. For example, if a hand gathering shareholder had never landed pippies, they would not be able to nominate their shares against that species. The new species-based shares would be issued in addition to the existing shares, which would be retained by each shareholder and would continue to limit the overall number of fishers who can access the fishery.

This is quite a different concept to using recent participation to proportionally allocate shares in new share class, which the SARC has major reservations about (see Issue 5.10).

Advice

The SARC **recommends** that the working groups continue to explore these approaches. In particular, the SARC notes that some eligibility criteria (based on past activity) would be needed to determine if a shareholder can nominate any existing shares to a species share. This would be necessary to ensure that shareholders could not simply speculate on the expected future value of shares at the expense of fishers who would rely on those shares.

Issue 5.12: Facilitating share trading

The SARC noted the DPI report relating to the provision of an online trading facility. Currently the Department is in discussion with a number of providers. Such a facility could offer substantial opportunities for improving the outcome of the Reform Program by enabling price anonymity between buyers and sellers, price transparency and allowing for a centralised market for share trading. The SARC endorsed the use of an online share trading facility.

Advice: The SARC **recommends** that the DPI continue to negotiate with prospective online trading providers and undertake a comparative cost/benefit analysis of the options and that the PFA provide feedback on the level of interest before the decision is made to fully invest.

Issue 5.13: Setting Interim total commercial access levels (ITCALs)

The SARC had previously agreed that it will not be possible to establish robust scientifically-based TAC/TAEs for all share classes within the timeframe of the Reform Program and, as a result interim catch and effort levels would be set. These will determine the size of the 'pie' available to be shared between the operators and give effort or kilogram values to shares. It is important that fishers have advice on the level of this initial catch and effort levels (known as ITCALs) at the time they are making decisions as to their future level of access in each fishery. It was expected that a set of decision rules (relating to characteristics such as biology, stock status, recent catch or effort levels, recent fishery dynamics) could be developed to establish ITCALs. However investigation by DPI has identified a single set of decision rules is not feasible given the diverse and dynamic nature of NSW species and fisheries.

Advice:

The SARC **recommends** that:

- ITCALs be set at or around recent catch or effort levels; and
- DPI Managers and the Science Group meet in September 2013 to consider the available catch and effort data and recommend the ITCALs

These recommendations will be used in the modelling exercises on share linkage options that are being undertaken in response to the outcomes of the first round of Working Group meetings.

The second round of Working Group meetings will be also be provided with an opportunity to comment on the basis on which the ITCALs were recommended.

Issue 5.14: Deferring the commencement of interim total commercial access levels (ITCALs)

As previously recommended there are concerns that even with the exit grant programme and other reform measures, the disparity between existing shareholdings and existing catch/effort will cause exceptional hardships for some high catch fishers. The SARC has considered several options to address this (see issues 5.8 staged implementation and 5.10 recent participation) but has identified a further option that might assist in reducing the burden on these operators, based on giving additional time before the linkages commence.

Advice

In order to provide additional time for operators to arrange their finances and accumulate any additional shares required, the SARC recommends that consideration be given to delaying the application of ITCALs that will apply to share linkages based on catch or effort, until 1 January 2016 rather than the proposed 1 January 2015.

This arrangement would not necessarily be applied across the board, but only for share classes where it be well justified.

Issue 5.15: Consideration of Concessional Zone permits in the Share Linkage Process

Advice has been sought from the SARC as to how Concessional Zone permits in the Estuary General Fishery should be considered in the adjustment process. The issue seems to be whether the permit holders should continue to have access into adjacent regions after shares have been linked. The SARC has been briefed by the Department on the history of these permits the nature of these rights as specified in the permits and in covering letters accompanying the annual permit sent over an extended period.

Based on this information, and that the continuation of such permits could undermine the value of shares after share linkage has occurred, the SARC is of the view that these permits should not feature under a future share linkage regime. However, the SARC notes that in correspondence with permit holders, the Department had foreshadowed a review of these permits.

Advice

SARC **recommends** that DPI undertake the formal review as soon as possible of the continuation of access to adjacent regions via concessional zone permits in the Estuary General Fishery.

Issue 5.16: Removal of fishing businesses

There is concern amongst Share Linkage Working Groups that Fishing Businesses and the Fishing Business Transfer Rules will be removed before the share linkage working group and exit grant process has been completed. If this occurred, there would be inadequate control of fishing effort.

Advice

SARC **recommends** that Working Groups and fishers be reassured that Fishing Businesses and the Fishing Business Transfer Rules will not be removed until share linkages are in place,

and will also depending on the strength of the linkage in each share class. Recommendation 6.1 of the Independent Review, accepted in the Government Response, clearly specifies this: "Fishing businesses should cease to have a role as a management tool to limit access once linkages (to catch, effort or a limited number of endorsements) are in place."

Issue 5.17: Comparing linkages

The second round of working group meetings will consider in more detail the options for linkages at the share class level. This will be influenced by such factors as relative costs, (e.g. compliance costs to ensure quota integrity in an ITQ fishery) and the degree to which some input controls can (or cannot) be removed as a result of a change in management.

Advice

The SARC **recommends** that working groups be supplied with as much data as possible to inform discussion of possible linkage options. It was noted that it would be helpful if the specific costs of alternative linking/management options at the fishery level were known in dollar terms, but the SARC accepted that to obtain these costs across all fisheries/share classes would be a difficult, costly and time consuming process. It will, however, be necessary for shareholders to have a clear understanding of the overall management cost of alternative arrangements, relative to current levels.

Issue 5.18: Social issues

The SARC is very aware of the pressures that the Reform Program is placing on individual families and businesses. It is pleased to note that assistance for operators is being sought:

- through Rural Mental Health services to help address personal issues associated with stress and related conditions; and
- through the Rural Assistance Authority to assist with business planning.

Advice

The SARC **recommends** that appropriate efforts are made to continue to provide support and assistance to coastal communities and individuals to help with the pressures arising from the reform programme. This will include the industry and Department providing advice to the above agencies on 'hot spots' where particular fisheries/areas of concern exist, in order to target services effectively. The SARC also notes that it does not have the expertise to assess or make recommendations on specific programmes to address social issues arising from the Reform Program.

Issue 5.19: Concerns about representation on SARC Process

Some working Groups expressed concern about the appropriateness of the involvement of the PFA as the sole industry observer on the SARC. The SARC was made aware of the recent formation of other industry representational bodies, and had also been contacted by individual fishers seeking attendance as observers at SARC meetings.

The SARC included the PFA as a permanent industry observer to its meetings since, at the time of the SARC's formation, the PFA was the only commercial fishing organization in the NSW which had a relatively wide industry membership/ network. At that time, the SARC was

aware of the PFA membership base and understood that the bias in PFA membership was towards the north of Sydney.

The inclusion of a permanent industry body observer on the SARC is one of a range of mechanisms that the SARC has used to ensure the transparency of its operations and to obtain industry views. Andrew Goulstone, DPI, is also included as a permanent observer on the SARC.

The SARC terms of reference also allow for the attendance of advisers to provide advice on specific aspects of the reform process. We will continue to do so as the need arises.

It is, however, the three-member SARC panel that is responsible for developing advice, feedback and recommendations on the reform process. Fishers should be aware that SARC members meet in the absence of observers to develop specific advice in fulfilment of these responsibilities.

Advice:

The SARC **recommends** that industry and the working groups are made aware that it has always been open, through its TOR, to receiving written submissions from any stakeholder on the reform process. The SARC will invite written submissions to the public release of the Working Group reports. This will provide fishers and other organisations with an opportunity to provide direct feedback to the SARC on the direction of the reform process and any gaps or perceived shortfalls in those reports.

Issue 5.20: Detail required in Working Group outcomes reports

The SARC reviewed the draft outcomes of the share linkage working groups and received verbal progress reports from the Chairs. It was noted that some issues verbally raised by the Chairs were not included in the outcomes documents. The SARC considers it important that key issues raised by industry and identified by the Chair as worthy of being recorded, be documented.

Advice

SARC **recommends** that future outcome documents should include:

- pros and cons of share linkage options for remaining as well as for exiting fishers; and
- a section entitled “Other Items of Significance noted by the Chair”.