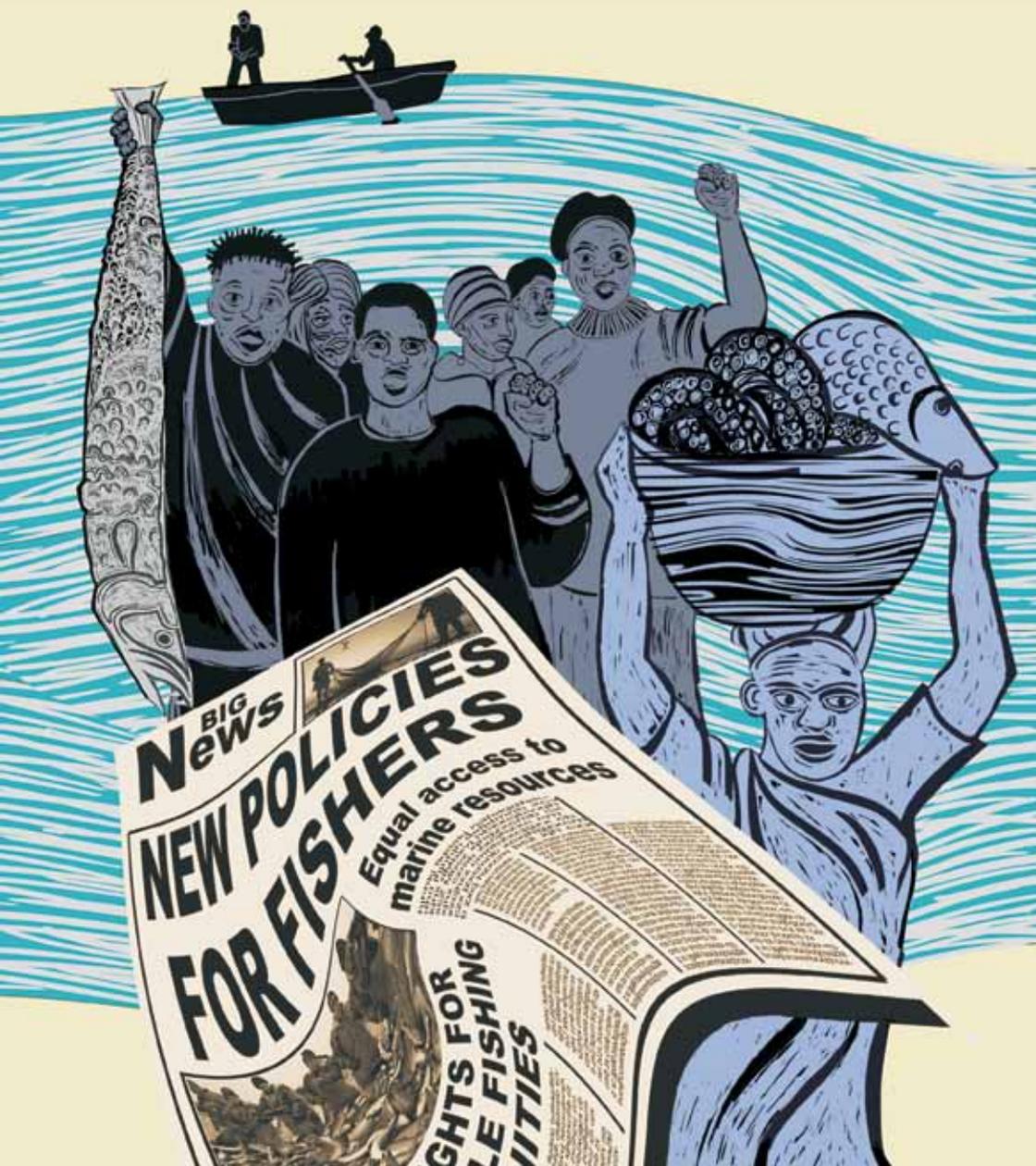


# Small-scale fisheries (SSF) POLICY

*A handbook for fishing communities in South Africa*



# Introduction

The Marine Living Resources Act, 18 of 1998 (MLRA), excluded small-scale and artisanal fishers who catch and sell fish to sustain livelihoods. Furthermore, it also excluded those involved in post harvesting and other activities like bait preparation, cleaning, processing and marketing.

In 2002, small-scale fishers gathered at the World Summit on Sustainable Development (WSSD) to discuss fishing policy. This triggered a civil society process to address small-scale fishing in South Africa.

In 2005, the government adopted long-term fishing policies that made no provision for small-scale fishers. Later that year, the matter was taken to the Equality Court which ordered that a new policy be developed to secure rights for small-scale fishers.



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In 2007, the Department of Environment Affairs and Tourism (DEAT) convened a National Summit on small-scale fisheries. The Summit elected and mandated a national task team with representatives from fishing communities to oversee the process of developing small-scale policy for the marginalized and excluded fishers in South Africa. In June 2012, the Small-scale fisheries policy was finally adopted by Cabinet.

The new small-scale fisheries policy moves away from an individual allocation of rights, largely commercial focus to one which is collective and has a developmental focus. More importantly, the policy gives legal recognition to small-scale fishers.

**Other benefits of the new policy include:**

1. The setting aside of preferential fishing zones for small-scale fishers, where they will be able to harvest or catch multiple species throughout the year. These zones will be out of bounds for big commercial fishing.
2. Improved and sustainable marine resource co-management.
3. Clear benefits for women, in fishing communities, from both fishing and value chain.
4. Greater access to markets and infrastructural support for the sector.

The policy has been designed to improve the livelihoods of fishers and fishing communities.

Masifundise Development Trust, the Institute for Poverty, Land and Agrarian Studies (PLAAS) at the University of the Western Cape and the Too Big to Ignore (TBTI) network compiled this Handbook on the SSF policy for the benefit of fishing communities.

It is our wish that you make use of the information to empower yourself and your communities by making the objectives of the policy a reality in your daily lives.



# What is this policy?

It aims to provide rights to small-scale fishing communities and to ensure that they have equal access to marine resources. It recognizes that this sector was left behind in the past.

The policy introduces **new ways** to approach the small-scale fisheries sector and specifically focuses on human rights, gender and development.

## KEY POLICY OBJECTIVES

The state has a key facilitating role to ensure that all objectives of the policy are achieved. These include, among others:

1. To adopt an integrated and holistic approach based on **human rights** principles;
2. To recognise an approach that contributes to **food security, local socio-economic development** and **poverty alleviation**;
3. To promote biodiversity and **sustainable use** and management of marine resources and ecosystems
4. To recognise that **social, cultural, economic and ecological parts** of small-scale fisheries systems are all linked;

5. To ensure that **co-management** empowers through education, training and skills development
6. To promote **effective participation** in policy development, management and decision- making;
7. To promote **equity** and **preferential access** for small-scale fishers to critical infrastructure and amenities such as land and at landing sites.
8. To ensure **participation** of small-scale fishing communities in planning and implementation of MPAs by state agencies such as SANParks and Mzevelo.



# Right Holding and allocation of small-scale fishing rights

This section explains the key definitions and criteria for allocating fishing rights to small-scale communities in order that they may have equitable access to marine living resources.

## WHAT IS A SMALL-SCALE FISHING COMMUNITY?

It is a community whose livelihoods are dependent on the natural marine resources, with people actively involved in harvesting the resources as a primary means of income; and whose social and cultural identity is integrated into these practices.

## WHO IS A SMALL-SCALE FISHER?

A small-scale fisher is a person who makes a living from the marine resources using little or no technology, usually on a day to day basis, on or near shore; and could be involved in the sale, barter or other commercial activity involving these resources.

## WHAT ARE SMALL-SCALE FISHING RIGHTS AND HOW ARE THEY TO BE ALLOCATED TO COMMUNITIES?

A small-scale fishing right is the right to catch different species of fish in the near shore. These rights are allocated to communities and not to individuals in terms of the Small-Scale Fisheries policy.

Fishing communities must apply to the Minister to be recognised as small-scale fishing communities under this policy. Once membership is verified, then government will assist to register them as community based legal entities.

The Minister will then allocate small-scale fishing rights to these community-based legal entities. The policy allows for a specific process for the application and allocation of these rights.

Once they are legally registered, the process of identifying what species will be in the basket will begin.

It is vital that community members take active steps to acquire skills to run the legal entities and serve on the co-management structures.

### WHAT IS A COMMUNITY BASED LEGAL ENTITY (CBLE)?

The policy proposes that every Small-Scale fishing community establishes a community based legal entity within which fishers can operate. This means the CBLE must implement a community based management approach. The CBLE must ensure that all activities associated with the harvesting and management of marine living resources are coordinated and properly controlled. The type of entity and the structure of the community-based legal entity will be decided on by the fishing community and must be informed by which type will best suit the needs of the community. The CBLE would be a registered entity (like a trust, cooperative or Section 21 or other company).

The entity is responsible for exercising the fishing right granted to the entity, how the catch will be sold and other value-adding activities. The entity has to prioritise the involvement of women.

The CBLE will ensure that a co-management structure is formalized and their responsibility would be to see that matters of compliance are adhered to and they have a key role to ensure that the interests of the community, sustainability of the ecosystems and the marine living resources are not compromised.

Once a CBLE has been verified, it must establish a co-management structure which will serve as the main local management body.

### WHAT ARE THE CRITERIA FOR FISHERS TO BECOME MEMBERS OF A CBLE?

**All the criteria below have to be met before you become a member of the legal entity and thereby a small-scale fishing rights holder.**

1. A South African citizen from a fishing community
2. 18 years of age (with child headed households, a guardian will represent such children on the legal entity)
3. A history of harvesting marine living resources personally or be involved on a daily basis in operations such as processing or marketing (unless physically disabled)
4. Able to show direct historical involvement in the small-scale fisheries sector (10 years)
5. Able to show past involvement in traditional fishing operations, which include catching, processing or marketing
6. Able to show historical dependence on marine living resources
7. Have no other employment
8. Subsist from their catch or be engaged in the sale or barter thereof or involved in semi-commercial activity

### WHAT ARE THE CRITERIA FOR A CBLE RIGHTS HOLDER?

1. You are from a recognised small-scale fishing community
2. You are part of a Community-based legal entity
3. You are on the list of identified eligible fishers

### HOW ARE COMMUNITY-BASED RIGHTS ACQUIRED?

The process of acquiring a community-based right will start from the identification of fishers, verification of the list and then the registration of the CBLE. The small-scale fishing community will use the agreed upon criteria as a means to identify the fishers. The proposed small-scale fishing



# A new path for small-scale fishers

Small-scale fisheries are seen as a critical component of economic development – contributing to food security, job creation, poverty alleviation and providing platforms for alternative livelihoods.

## With this in mind, five key elements are identified:

1. preferential access to small-scale fishing communities who depend on the resources for a livelihood;
2. adopting a multispecies approach to allocating fishing rights to small-scale fishers;
3. implementing a co-management approach to managing small-scale fisheries sector;
4. Committing to a sustainable ecosystem to marine resources;
5. Gender Rights.

## 1. PREFERENTIAL ACCESS

Small-scale fishers, whose livelihoods depend on marine resources, should get **preferential access** to the near shore.

The Small-scale fisheries policy proposes that certain areas on the coast be prioritized and demarcated as small-scale fishing areas. In some areas access rights could be reserved exclusively for use by small-scale fishers. The community, once they are registered as a community-based legal entity, could apply for the demarcation of these areas and should conflict arise, it should be referred to conflict resolution under the Policy. These

community will identify fishers and develop a list, which they will submit to the Minister. The Minister, Department or third party will verify the list according to the criteria. Once the names on the list have been verified the registration of a CBLE can take place.

All small-scale fishers must meet the criteria for allocation:

1. The fishing community applies to the Minister for recognition as a small-scale fishing community
2. The Minister declares the small-scale fishing community and declares its extent
3. Community identifies fishers that meet the criteria to become part of the community-based legal entity; and the list is submitted to the Minister
4. The list is verified and approved for establishment of the entity
5. The Community based legal entity is established
6. The Entity makes a list of members who may fish its allocation and applies for fishing rights and if needed, the fish processing right
7. The Minister (or delegated official), considers the application and decides to grant or refuse the right/s.

These rights are to be awarded for the remaining of the long-term rights allocation **period**



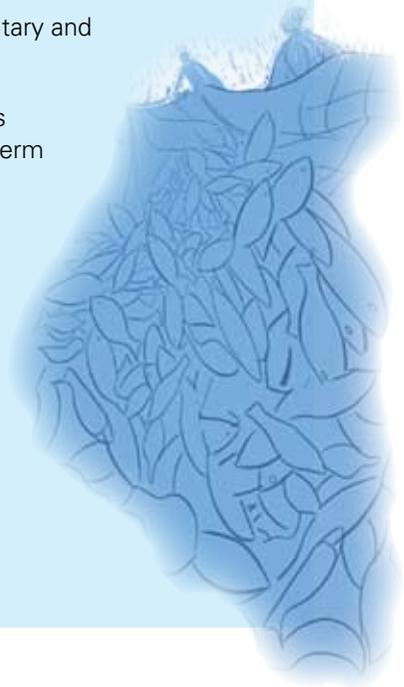
areas should be co-managed by the community and the Department. Designated landing sites will be identified and these areas should be integrated into the local IDPs.

## 2. MULTI-SPECIES APPROACH TO ALLOCATING RIGHTS

This means that a basket of species may be harvested or caught within particular designated areas (see map). The basket allocated to the small-scale community based legal entity will depend on quantity of the marine living resources available in the total allowable catch (TAC), zonal allocations and total allowable effort (TAE). Both of these need to be taken into account alongside the socio-economic needs in the community.

The criteria for the allocation of a multi-species basket will depend on:

1. The availability and productivity of the specific species in the demarcated area;
2. The geographic availability of migratory species (for example snoek and yellowtail) and the total allowable Effort (TAE) of that species. Migratory species will not be allocated to a specific community- based legal entity – it will be allocated across the boundaries of small-scale fishing community areas;
3. The extent to which the resources are sedentary and migratory and can be sustainably exploited;
4. The extent to which the particular resource is already being exploited in terms of the long-term rights allocation process;
5. The availability of certain species where the TAC is made up of zonal allocations – taking into consideration the allocations to the other sub-sectors to ensure the zonal allocation does not exceed the TAC;
6. The nature, extent and history of traditional fishing in the area.



## Map: Five Basket Areas for Small-scale fisheries



The Department recommends five basket areas:

1. Basket Area A – The Namibian border to Cape of Good Hope – 57 different resources
2. Basket Area B – Cape of Good Hope to Cape Infanta – 109 different resources
3. Basket Area C – Cape Infanta to Tsitsikamma – 107 different resources
4. Basket Area D – Tsitsikamma to the Pondoland MPA – 138 different resources
5. Basket Area E – Pondoland MPA to the Mozambican border – 127 different resources

### 3. CO-MANAGEMENT APPROACH

The responsibility of managing these resources will be shared between the local community and the government (fisheries department). This means fishers of small-scale fishing communities are empowered to participate with Government in developing and implementing management plans. Co-management requires sharing of management decisions with the fishing communities. Each will have specific rights and responsibilities. Co-management committees must be established and will comprise of fishers who are members of the community-based legal entity and representatives of provincial and local government. If the area is near an MPA, representatives from the conservation authority will be included. Over time, fishers and other members of the community will take greater responsibility for the well-being of the community, the environment and the management of marine resources.

### 4. SUSTAINABLE ECOSYSTEMS

Small-scale fisheries will be managed in terms of a community-based co-management approach that must ensure that harvesting and utilisation of resources occur in a **sustainable** manner in line with an ecosystem approach. The commitment to the sustainability of the ecosystem and marine life means that the marine resources must be managed in such a way, that it could be sustained and available to future generations.



### 5. GENDER RIGHTS

The new policy aims to ensure that men and women get equitable benefits from the sector. Women have always played a key role in the pre- and post-harvest activities and in some areas women are the primary harvesters on intertidal resources. The role of women in the management plans, co-management and CBLE should be based on promoting economic empowerment and changing practices that hindered women's rights to access, benefit from resources, employment, economic opportunities and decision-making. More specifically, small-scale fisheries policy must ensure that women are:

1. Empowered to exercise their rights to participate in the management of the marine resources;
2. Trained to participate in the marketing, tourism, aquaculture, and additional coastal economic opportunities;
3. Equally represented on institutional structures.

### 6. SUPPLY CHAIN FROM CATCH TO MARKETS

The Department must assist communities with the appropriate infrastructural support, advice and put mechanisms in place to ensure communities derive maximum benefits from marine resources in their area. These mechanisms will include a comprehensive development finance scheme for the storage of fish, skills and training in the processing, storing, packaging, marketing and transport and basic management skills (finance, management, logistics, human resources); the establishment of locally based and owned marketing companies; and the development of a South African label/certificate for fish caught by small-scale fisheries.



# Appeals and Interventions

## What can I do if I am not successful with the identification, verification and registration processes?

### a) Appeals could be made to the Minister, based on the following:

1. The refusal to declare a small-scale community
2. The demarcation of a designated fishing area
3. The refusal to grant rights to a community-based legal entity; or
4. If a community-based legal entity is not satisfied with its allocation

### b) Conflict Resolution

The Director General may appoint a mediator in resolving **disputes** involving:

1. eligibility of individuals to be members of a community-based legal entity
2. the preparation or adoption of a constitution
3. conflicts between small-scale fishing communities
4. conflict between the community and its entity
5. conflicts between community-based legal entities

## Can current rights holders apply for small-scale fishing rights?

Fishers who currently have long-term fishing rights will keep their rights for the entire period of the allocation. They can choose to be incorporated under the SSF policy if they meet the qualifying criteria, at any time, but will then forfeit their long-term rights

The Minister may use her discretion, where appropriate, to combine the TAC or/and TAE from permit holders under the long-term Policy and who decides to be accommodated in this policy. The Minister may add it to the TAC and/or TAE of the small-scale community or community-based entity.

No person may operate a fish processing establishment without the Minister's approval.

Community based legal entities will pay a nominal application fee for small-scale fishing rights. These fees will be determined through consultation. Levies may be charged on certain species.

Certain conditions may be included when rights or permits are granted

Only the Minister may approve transfer of small-scale fishing rights in exceptional circumstances after comments from the small-scale fishing community and the community based legal entities.



## CONCLUSION

The SSF policy lays the foundation for a break with the past and a new beginning of empowered fishing communities.

Its proper implementation is going to be vital and depends on united, visionary and informed communities.

Discuss and debate the content of this publication and share it with others. As we know, knowledge is power.

Let us work together to ensure that the policy becomes a lived reality in our daily lives.



Handbook produced by Masifundise Development Trust,  
Institute for Poverty, Land and Agrarian Studies (PLAAS)  
and Too Big To Ignore

Other important documents

The Amended Marine Living Resources Act,  
The Co-operative Act, the Small-Scale Fisheries Policy.

Photographer: *Paul Grendon*

Layout and Design: *02 Design*

Printing: *FA Print cc*

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