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Chilean Jack Mackerel Fisheries Regulation Regime

- Delegation of Chile -

Background

Given the significance of the jack mackerel stock for the Chilean national fishing activity, jack mackerel was one of the first fishery resources subjected to regulations by the national authorities. The regulatory process began as early as the 1980s and the last major development has been introduced in 2013, evolving gradually to date. The conservation and management of jack mackerel has been precisely the driving factor in the main progress made in regulating national fishing activities.

Regulations governing the fishing of jack mackerel have also imposed major challenges and demands on scientific research, thus establishing a mutual interdependence that has strengthened both processes. Conservation policies and management measures adopted for the jack mackerel stock by Chile are based on scientific recommendations, both national and international.

Since jack mackerel is a straddling resource, distributed throughout the area in which the Chilean fleet operates, regulations established for the EEZ apply equally to the operation of the fleet on the high seas. National scientific research includes both areas. Quotas are established considering all the information available in both areas. Catches made by the national fleet on the high seas are counted against the individual quotas allocated to each ship owner. Access to the fishery has been suspended since the 1990s, with a system of individual quotas; effective control, monitoring and surveillance mechanisms; and a swift and efficient penalty system.

Adoption of National Quota

The national quota for jack mackerel is adopted by the Ministry of Economy through a Law Decree on an annual basis, following the recommendation and advice provided by the National Technical Scientific Committee (NTSC) for Jack Mackerel. NTSC made its recommendation following a regulated and transparent process that takes into account results and inputs obtained from national research programs as well as the work and recommendations of the SPRFMO Scientific Committee.

The Law Decree is adopted in December each year and enters into force in January of the coming year. It is important to recall that this is a common pattern in many countries and RFMOs as well, despite the fact that the SPRFMO annual Commission Meeting takes place at the beginning of the year due to the busy calendar of RFMOs annual meetings.

The Law Decree that approves the national quota establishes the subdivision of Jack Mackerel national TAC for the different purposes regulated in the Fisheries Law:

- Catastrophic events quota: up to 1% of national quota;
- Research quota: up to 2% of national quota;
- Human consumption quota for small and medium processing companies: up to 1% of national quota.

The remaining quota corresponds to the objective quota, which is firstly divided geographically and then fractioned among sectors:

- North (XV-II Regions): 15% of the objective quote, fractioned into 95% for the industrial sector and 5% for the artisanal sector;
- Center-south (III-X Regions): 85% of the objective quote, fractioned into 90% for the industrial sector and 10% for the artisanal sector.

Annual Consumption of National Quota

The national annual quota regulation enters into force the first day of each year, in accordance to different fraction quotas described above and taking into account its allocation in ITQ (individual transferable quotas) for industrial shipowners.

Moreover, the law and secondary legislation establish a series of mandatory rules for ITQ shipowners that are established to manage associated or non-target species as well. In some cases, in order to participate in a regulated fishery, it is mandatory by law to hold an ITQ license for both target and associated species. As a result, an ITQ owner may not be able to catch its entire jack mackerel individual quota due to the risk of overpassing its individual quota of other target or associated species. Usually, this is the case in Chile for jack mackerel and anchovy fisheries that due to the fishing pattern, some times during the fishing season, may be caught respectively as a target and associated species and vice-versa. This fishing pattern responds mainly to environmental factors that cannot be controlled or anticipated by the national regulation. As a result of that, a marginal percentage of Chilean annual quotas may be not captured, but need to be considered in the national quota calculation. Similar situation applies to the catastrophic events quota which completion is uncertain.

National Fishery Regime in Accordance to International Law

Chilean fisheries regime for jack mackerel and for other main national resources as well, has been built for more than four decades; the national distribution of Chilean quota (allocation) is established in accordance to the legal regime summarized above, which has been continuously updated. This legal framework has been created in accordance to the International Law of the Sea instruments of which Chile is a party, UNCLOS and, particularly the SPRFMO Convention. Art. 4 of the SPRFMO Convention implements compatibility of conservation and management measures adopted for the area of the Convention and existing conservation and management measures

established by relevant Coastal Contracting parties such as Chile, recalling that initial measures shall take due account of and do not undermine the effectiveness of Coastal States measures, as is also recognized in UNFSA Art. 7.