

Insights from an analysis of *Seguro-Defeso's* legal framework

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After almost 30 years since the enactment of the *Seguro-Defeso* programme, there is an urgent need to assess its impacts on the socioeconomic conditions of beneficiaries. This One Pager highlights key aspects of the programme's legal framework.

The *Seguro-Defeso* is a contributory social security measure conceived as an integral part of Brazil's unemployment insurance scheme, targeting artisanal fishers—the most vulnerable category in commercial fishing—as compensation for the application of the *Defeso*, a temporary fishing ban aiming at the preservation of species, established through a Normative Instrument published in the country's Official Gazette.

The *Defeso* ranks among the measures predisposed to sustainably manage fishery resources in Law 11959/2009, serving as an overall legal framework for the fishery sector in Brazil. However, the situation of artisanal fishers during the *Defeso* season is equated to involuntary unemployment. The *Seguro-Defeso* entails the payment of a monthly minimum wage during the ban period to artisanal fishers, provided that certain requirements are met. Therefore, it aims to ensure the effectiveness of the *Defeso* by addressing the economic vulnerability of artisanal fishers.

The link between the two measures is operationalised by a complex intersection of different branches of law and public bodies involved in programme management and implementation. Six different institutions are involved in the implementation of the programme, resulting in the enactment of a large volume of sub-statutory acts regulating its individual aspects. Their interrelation, particularly regarding their temporal application, results in a substantial degree of legal complexity from the beneficiary's point of view. The absence of coordination mechanisms also poses challenges to the programme's implementation.

It should also be considered that in the past two decades, the responsibility for the sustainable management of fishery resources has frequently shifted from one public institution to another, significantly impacting financial and human resources and hindering the continuity of related actions and programmes. Furthermore, the regulatory framework of the *Defeso* has been substantially amended by Decree 8967/2017. The amendment requires the competent public body to evaluate the adoption of other measures for the sustainable management of fishery resources prior to establishing *Defeso* periods, and to periodically assess the effectiveness of *Defeso* periods, with suspension or revocation of the underlying normative act in case of ineffectiveness. In both instances, fishery statistics are key in informing the decision of authorities. Yet, the latest Fishery Activities Bulletin, which features data on production, was published in 2011. Since then, fishery statistics have not been systematically gathered at the national level.

Finally, although a participatory approach in fishery is legally required, participatory channels are almost non-existent. In particular, the Permanent Management Committees were suspended by Decree 9759/2019, and the National Council for Aquaculture and Fishery is currently not operational. Given the lack of effective participation, fishery communities have become distrustful of public authorities, and legal instruments for the protection and preservation of fishery activities have been de-legitimised.

The degree of complexity is further increased by the fact that the legal framework of the *Seguro-Defeso* and associated legislation have been subject to numerous changes over time, including in relation to beneficiary definitions and criteria to access the benefit. Since the introduction of the current regulatory framework (Law 10779/2003), these have been amended several times with the effect of increasing or decreasing the number of beneficiaries. Moreover, in 2015 the number of beneficiaries decreased due to the suspension of 10 *Defeso* periods by Inter-ministerial Ordinance 192/2015, which were subsequently reinstated by Decree 293/2015. The study design for the impact evaluation of *Seguro-Defeso*, to be carried out by the International Policy Centre for Inclusive Growth (IPC-IG), takes into consideration this heterogeneity of the target population.

Two aspects related to the criteria adopted to access the benefit should be discussed. The General Registry of Fishing Activities (*Registro Geral de Pesca—RGP*), in which the artisanal fisher must be registered to access the benefit, allows individuals, legal entities and vessels to lawfully exercise fishing activities. In 2016, the Federal Comptroller General highlighted the ineffectiveness of the registration of fishers due to the unreliability of registered information, the lack of inspection by the competent authorities and the lack of penalties for presenting false information. New registrations have been suspended since 2015. The Federal Court of Accounts, through Ruling 1.999/2016, recommended several improvements to the system. This led to the development of a new version (SisRGP 4.0) in 2019.

Finally, eligibility requirements are partially fulfilled by a self-declaration, through which the applicant states that they have no income sources apart from fishery activities and their continuous engagement in fishing. This may hinder the ability of institutions to carry out internal audits, increasing the risks of fraud.

Reference:

Lazzarini, L. 2020. "The legal framework of the unemployment insurance for artisanal fishers", in IPC-IG and FAO (forthcoming): "Seguro-Defeso impact evaluation". Brasília: International Policy Centre for Inclusive Growth Centre for Inclusive Growth and Food and Agriculture Organization of the United Nations.