



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT

POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE INSHORE TRAWL
FISHERY: 2005

THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE
ALLOCATION AND MANAGEMENT OF LONG-TERM COMMERCIAL FISHING
RIGHTS: 2005

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1. Introduction

This policy on the allocation and management of commercial fishing rights in the inshore trawl fishery is issued by the Minister of Environmental Affairs and Tourism ("the Minister") This policy must be read with the General Policy on the Allocation and Management of Long-term Commercial Fishing Rights: 2005 ("the General Fisheries Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial inshore trawl fishing rights. Many of these considerations are not new. They have been applied by the Minister and delegated authorities from Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department") when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this draft policy. An Inshore Trawl Fishery Management Manual will be finalised with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the fishery.

The Minister intends to delegate the section 18 power to allocate inshore trawl commercial fishing rights in terms section of 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Sector profile

Commencing in the 1890s, the demersal trawl fishery (deep-sea and inshore sectors) is South Africa's most important fishery and, for the last decade, it has accounted for more than one half of the wealth generated from commercial fisheries. Although the inshore trawl fishery was pioneered at the start of the twentieth century, it was only in the 1950's that the fishery took on a commercial face when smaller trawlers entered the fishery to target hakes and the more valuable Agulhas sole (*Austroglossus pectoralis*). The inshore trawl fishery continues as a "dual quota" fishery targeting both shallow-water hake (*Merluccius capensis*) and Agulhas sole.

As was the case with the deep-sea trawl fishery, prior to 1978, the inshore trawl fishery was largely unregulated and participants were not restricted to a maximum catch limit. In 1978, the demersal fishery was formally separated into inshore and offshore sectors, a global annual total allowable catch ("TAC") was introduced and was divided between the sectors. An annual sole TAC was also set. Individual quotas were introduced in 1982. Since then, an annual TAC has been set for both the Cape hakes and for Agulhas sole. The inshore trawl fishery has been managed in terms of a sole TAC and a portion of the hake TAC. The sectoral allocation of the global hake TAC has remained remarkably stable at around 6 percent.

The Department manages the inshore trawl fishery as part of a "hake collective". In terms of the MLRA, a "global" TAC for all hakes (both species combined) is set annually by the Minister of Environmental Affairs and Tourism. Of the global hake TAC a reserve to cover bycatch in the horse mackerel fishery and, until 2004, 1 000 tons for foreign fishing was set aside prior to distribution among the hake fishing sectors. Currently the global hake TAC (after deduction of the horse mackerel by-catch reserve) is distributed among the deep-sea trawl, inshore trawl, hake lone line and hake handline fishery sectors without regard to the hake species split in the respective fishery sectors. In terms of that arrangement, 83% is allocated to deep-sea trawl, 6% to inshore trawl and 10% is shared between hake long line and hake handline. However, a sectoral allocation procedure that takes cognisance of the species taken by that sector and the contribution of that species to the global TAC may have to be developed in order to match hake exploitation to the productivity of the two hake species. In terms of such a procedure, the sectoral allocation of hake to the Inshore Trawl Fishery would be determined only by the status of the shallow-water hake resource.

Inshore trawl grounds are located between Cape Agulhas in the west and the Great Kei River in the east. To protect the inshore areas, vessels operating in the inshore fishery may not exceed 30m and may not use heavy trawl gear. In addition, vessels fishing on deep-sea trawl permits may not operate in water depths of less than 110 metres or within 20 nautical miles of the coast, whichever is the greater distance from the coast. However, inshore vessels are not restricted from fishing deeper than 110m. Trawling for hake occurs throughout the traditional "inshore" area i.e. in waters shallower than the 110m isobath and on the two offshore fishing grounds. Trawling for Agulhas sole is in water depths of 50-80m, mainly between Mossel Bay and Struisbaai, in areas where the substrate consists of mud/shale. Most of the bays on the South coast are closed to trawling.

The inshore trawl fishery sustains some 1 100 direct jobs. Black people occupy more than 90 percent of these jobs, while women hold 42 percent. Working conditions in the inshore trawl fishery are generally considered to be better than those that prevail in other fisheries. The majority of employees are employed on a full-time, year round basis, with fixed salaries and employment benefits. The average annual income of sea-going crew is R35 000. Sea-going workers are registered with the Bargaining Council for the South African Fishing Industry which has two chambers: one for the deep-sea trawl fishery and one for the inshore trawl fishery. The Bargaining Council sets out basic conditions of employment in these fisheries.

The inshore trawl fishery is not as capital intensive as the deep-sea trawl fishery, but significant investments in the form of vessels, processing and marketing infrastructure have nevertheless been made by the existing participants. The total value of the assets in the fishery is estimated to be more than R100 million. The market value of catch landed is worth approximately R60 million annually.

Hake stocks are currently managed according to a conservative strategy. The TAC for hake has been reduced each year since 2003 and further reductions may be necessary.

3. The medium-term rights allocation process

As with all other commercial fisheries in South Africa, the inshore trawl fishery has historically been dominated by a handful of large white-owned companies. The introduction of the TAC in 1978 resulted in the smaller companies being forced out of the fishery. In 1992, eleven large companies operated 35 trawlers in the fishery. By 2004 however, 16 companies were participating. As importantly, in 1992 the ratio between smallest quota and the largest quota was 1:45. Ten years later, the ratio was reduced to 1:26. The gap between the smallest and the largest allocations has been closing.

The "internal" transformation of the traditional companies, and the entry of black-owned and managed companies since 1992, has resulted in a significantly improved transformation profile in this fishery. The transformation profile of this fishery however remains below the industry average of 66%. Medium-term rights allocation records show that:

- The inshore trawl fishery is currently 50 percent black-owned;
- 69 percent of right-holders are small- and medium-sized enterprises;
- 37 percent of the hake TAC and 46 percent of the sole TAC is held by black-owned companies (in 1992 this was one percent).

4. Over-arching sectoral objectives

The over-arching objectives of allocating long-term fishing rights in this fishery are to:

- Notably improve the transformation profile of the inshore trawl fishery, particularly by increasing black ownership of the TAC and to redistribute the TAC so as to affirm right holders with smaller allocations in this fishery that are transformed and have performed well;
- Create an environment that attracts investment and stimulates job creation;
- Reduce the adverse impacts of trawling, such as damage to seabeds, and to reduce by-catch; and
- Support the economic viability and environmental sustainability of the fishery.

5. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the fact that the current inshore trawl fleet is old and requires replacement;
- the need to maintain the current economic stability in the fishery; and
- the fact that the inshore hake and sole resources are well managed with reliable and current data,

commercial rights will be allocated for a period of 10 years (1 January 2006 to 31 December 2015). The Department will regularly evaluate right holders against predetermined performance criteria (see paragraph 12 below).

6. New Entrants

Hake and sole stocks are presently managed in terms of a recovery plan as there are indications that these stocks are declining. Furthermore, the accommodation of new entrant applicants in the fishery between 1992 and 2002 had resulted in the hake allocation decreasing from an average of 900 tons to an average of 600 tons per right-holder. Sole allocations were similarly reduced from an average of 80 tons to an average of 50 tons per right-holder. New entrants may be admitted but the total number of participants will not be increased.

7. Evaluation criteria

Applications will be screened in terms of a set of "exclusionary criteria". New entrant applicants and previous right-holder applicants will thereafter be separately assessed in terms of a set of weighted "comparative balancing criteria". A cut-off score will then be determined in order to select the successful applicants. A proportion of the TAC will then be allocated to each successful applicant in terms of a set of "quantum criteria".

7.1 Exclusionary criteria

Apart from the criteria described in the general policy pertaining to the lodgement of the applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

- (a) Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted rights. Current natural person right holders must apply in the form of a close corporation or company and will be treated as

medium term right holder applicants provided that they comply with the guidelines set out in the General Policy.

- (b) **Compliance:** Right-holders, including their members, directors or controlling shareholders that have been convicted of an offence in terms of the MLRA will not be allocated an inshore trawl right. This does not include the payment of an admission of guilt fine. Right-holder applicants, including their members, directors or controlling shareholders, that have had any fishing right cancelled, suspended or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 21 of 1998 or the MLRA, will also not be allocated an inshore trawl fishing right.

Decisions may be reserved on applications from right-holders that are being investigated for breaches of the MLRA. A decision on such an application will be made after the completion of such an investigation.

The Department requires every right-holder to pay a levy on targeted fish landed. Right-holders that have under-reported catches to, *inter alia*, avoid the payment of levies will be excluded. Right-holders that have not paid levies or will be penalised in the comparative balancing process as set out below. Should such an applicant nevertheless qualify for a right, a fishing permit will not be issued until the outstanding monies have been paid to the Department.

- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (see paragraph 8 below).

7.2 Comparative balancing criteria

Right-holder applicants and potential new entrants will be evaluated in terms of the following balancing criteria, which will be weighted in order to assess the strength of each application. The criteria stated below must be read with the corresponding criteria

in the General Policy for further detail. This applies in particular to the “transformation” criterion.

(a) Transformation

One of the objectives during the process of allocating long-term fishing rights in this fishery is to improve on the present levels of transformation. As set out in the General Fisheries Policy, applicants will be assessed and scored on –

- The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- Whether employees (other than top salary earners) benefit from an employee share scheme;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The delegated authority may also have regard to the wage differentials between the highest and lowest paid employees;
- Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes; and
- Corporate social investment.

(b) Investment in the fishery

As far as right-holder applicants are concerned, the delegated authority will specifically consider:

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered. Right-holder applicants will not be rewarded for having concluded conditional vessel purchase agreements;
- Investments in processing and marketing infrastructure. The delegated authority may reward right-holder applicants that have invested in hake and sole processing factories and marketing initiatives.

As far as new entrant applicants are concerned, the delegated authority will consider investments made in other sectors in the form of vessels, fixed assets, processing and marketing infrastructure. All new entrant applicants will be required to demonstrate that they have the knowledge, skill and capacity to participate in the hake inshore trawl fishery.

(c) Performance

Applicants that without good reason over- or under-caught hake or sole (by more than 10 percent) over the medium-term period will be penalised. Financial performance will be measured as indicated in the General Fisheries policy.

(d) Value-Adding and Enterprise Development

The delegated authority may have regard to enterprise development and to the ability of applicants to add to the value of hake and sole through processing.

(e) Jobs

The inshore trawl fishery provides approximately 1 100 jobs. Salaries average R35 000 annually for sea-going employees. The majority of employees are employed on a full-time basis with benefits such as medical aid and pension. Fair labour practices generally prevail.

Job creation and increases in jobs as a result of the allocation of medium term fishing rights will be rewarded, and in particular, applicants that have provided their employees with –

- Full time employment;
- Medical aid and pension; and
- Safe working conditions.

Jobs created per ton of fish allocated during the medium-term rights allocation process will be assessed and taken into account.

(f) By-catch

The volume of by-catch in the inshore trawl fishery remains of concern to the Department. The targeting of high value by-catch species such as kingklip (*Genypterus capensis*) and monk fish (*Lophius vomerinus*), is of particular concern. Present catch rates indicate that catches for both species are above sustainable levels. Kingklip abundance on the South Coast is particularly depressed.

The Department has determined the maximum annual by-catch allowances for kingklip to be 3000 tons and for monk fish to be 7000 tons. These by-catch allowances shall apply to the hake fishery as a whole. Prospective applicants will be required to demonstrate what by-catch mitigation and reduction measures they have been implementing or, if new entrant applicants, would invest in to ensure adherence with the above by-catch limitations.

(g) Local Economic Development

The delegated authority may take into account whether the applicants, particularly smaller right-holders and new entrant applicants, have elected to land their catches and have them processed in centres outside of the large metropolitan areas such as Port Elizabeth and Cape Town. If the delegated positively scores these applicants, this must not result in penalising the larger hake inshore trawl right-holders that have made substantial investments in processing and marketing facilities in Cape Town and Port Elizabeth.

(h) Non-payment of Fish Levies

Right-holder applicants will be penalised if their levies are outstanding for a period longer than 60 days at the date of application.

(i) Compliance

If the applicant, its members or its directors or controlling shareholders have paid admission of guilt fines for contraventions of the MLRA, its Regulations or permit conditions, the applicant will be penalised.

(j) **Environmentally sustainable practices**

The practice of trawling is known to cause damage to sea beds. To date there is no conclusive data indicating the extent of the damage caused. The delegated authority, in applying the precautionary management principle, will take into account whether an applicant has or intends to –

- reduce damage to sea beds; and
- be more energy and fuel efficient (also applicable to processing factories).

7.3 Quantum criteria

In this fishery, the mechanism for allocating quantum will form the subject of further consultation with applicants once the applications in this fishery have been assessed and the successful applicants have been identified. Subject to the outcome of the consultation process, the following three principles will be applied in respect of the allocation of quantum.

Firstly, the allocation of quantum to successful medium term right holder applicants will be determined with reference to the quantum held by right holders in 2005.

Secondly, the delegated authority must endeavour to redistribute at least 10% (ten percent) of the TAC to small businesses and right holders with small allocations, provided that these entities are sufficiently transformed and performed well during the medium term process.

Thirdly, and in addition to the above two principles, the delegated authority shall be entitled to allocate quantum based on criteria intended to achieve the objectives of this policy, such as transformation and performance. These criteria must be designed in a manner which should ensure that all successful applicants, regardless of the size of their previous allocations, will be able to benefit if they meet the criteria.

8. Suitable vessels

A suitable vessel in the inshore trawl fishery is a vessel that:

- has a maximum SAMSA registered length of approximately 30 metres;
- is fitted with a functioning vessel monitoring system;
- has a maximum horsepower of 750; and
- is geared to target sole and hake at depths of not more than 110m.

9. Multi-sector involvement

Right-holders in the inshore trawl fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the inshore trawl fishery (including their members, controlling shareholders and members of their executive management team) will not be allowed to hold commercial fishing rights in the Cluster C and Cluster D fisheries, including traditional line fish.

10. Application fees and levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

11. Management measures

The management measures discussed below reflect a number of the Department's principal post right allocation management intentions for this fishery.

11.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and various landbased activities impact on the broader marine environment. This part of the inshore trawl fishing policy does not attempt to provide a policy statement on EAF in the inshore trawl fishery. The EAF in the inshore trawl fishery will be detailed further in the Fishery Management Manual for the inshore trawl fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

11.2 Fisheries management areas

The hake inshore trawl fishery targets two hake species and Agulhas sole within a relatively small marine area. The Department is concerned that the intensive targeting of hake in this area is placing unsustainable pressure on linefish stocks such as kob and kingklip. The Department also intends to reduce the sharing of fishing grounds by trawlers and longliners.

Section 15 of the Marine Living Resources Act makes provision for the declaration of fisheries management areas. The Department will consider declaring such management areas in an attempt to reduce the by-catch of kob and kingklip in particular, and to address the potential user conflict between longliners and trawlers.

11.3 Consolidation of participants

After the allocation of 10-year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery, particularly where:

- Right-holders share the same shareholders, offices or management team;
or
- Smaller right-holders opt to consolidate their business operations.

Consolidation of right-holders is however subject to the Department's approach to monopolies (see paragraph 11.5 below).

11.4 Vessels and fishing effort

There are presently 35 inshore trawl fishing vessels that operate in South African waters. The majority are old vessels that require replacement. The upgrading of the fleet may result in an increase in the fishing efficiency. The Department will carefully evaluate the cumulative effect of the introduction of further and new vessels into the fleet. Right-holders will not be permitted to introduce vessels capable of expending effort far in excess of their allocations. In addition, the Department may consult with the Fishery Industrial Body on all applications to introduce further or new vessels into the fishery.

11.5 Monopolies

While the Department will encourage the consolidation of right-holders in this fishery, the Department is opposed to monopolies which may operate to the detriment of smaller right-holders.

The Department will not at this stage determine a maximum threshold of the TAC that any one right-holder may hold or control but will monitor whether any larger right-holder acts in a manner contrary to fair competition practices.

11.6 TAC ratios– Trawl:line

The current TAC ratio of trawl:line will by and large be maintained. The ratio, however, will be reviewed once further data become available on the relative impacts of trawling and longlining.

12. Performance measuring

The Department will institute a number of performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first performance measuring exercise will take place after two years and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of commercial fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- investment in vessels, factories and gear;
- sustainable utilisation and in particular the reduction of by-catch and the ecological impacts of trawling;
- compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

13. Observer programme

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

14. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.