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**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT**

**POLICY FOR THE MANAGEMENT AND ALLOCATION OF
COMMERCIAL FISHING RIGHTS IN THE
TUNA POLE FISHERY: 2005**

**THIS DRAFT POLICY MUST BE READ WITH THE DRAFT GENERAL
POLICY ON THE ALLOCATION AND MANAGEMENT OF LONG-TERM
COMMERCIAL FISHING RIGHTS: 2005 (available at [www.mcm-
deat.gov.za](http://www.mcm-deat.gov.za))**

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1. Introduction

This is a draft policy on the allocation and management of commercial fishing rights in the tuna pole fishery and is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“*the Department*”) for public comment. This policy must be read with the Draft General Policy on the Allocation and Management of Long-Term Commercial Fishing Rights: 2005 (“*the General Fisheries Policy*”). Interested and affected parties may submit written comment to the Department by 4 April 2005. Comments submitted after this date will not be considered. Comments shall be submitted as follows:

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Tuna Pole Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 Tuna Pole Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Tuna Pole Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Tuna Pole Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial tuna pole fishing rights. Many of these considerations are not new. They have been applied by the Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

Certain post-rights allocation management policies are also presented in this draft policy. A Tuna Pole 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 of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate seaweed rights in terms section 79 of the Marine Living Resources Act 18 of 1998 (“*the MLRA*”) to a senior official of the Department.

2. Biology and resource dynamics

Albacore (*Thunnus alalunga*) is predominantly a temperate water tuna. It is a pelagic species and, juvenile albacore of less than 90 centimetres in length typically form large schools near the surface of the water. Adult albacore occur much lower down in the water column and do not form large schools. Therefore, they are unavailable to the surface gear used by the poling fleet. In the Atlantic Ocean there are two stocks of albacore; the northern stock is separated from the southern stock at approximately 5°N. Albacore spawn in the western Atlantic in both hemispheres.

Albacore have a wide geographic distribution, occurring in all the major ocean basins. The poling fleet only operates along the west coast of South Africa, targeting the southern Atlantic albacore stock. Stocks of Indian Ocean albacore, which occur along the east coast of South Africa, are considerably less abundant. Large quantities of southern albacore are also caught off the coasts of Namibia, Brazil and Argentina. Albacore are only caught in South African waters between October and June and therefore the tuna pole fishery is seasonal. The availability of the resource to the fishery is further determined by environmental conditions, which in some years concentrate fish and bring them closer to shore.

Due to its occurrence on the high seas, albacore is caught by many nations. The management of this species is the responsibility of regional fisheries management organisations (“RFMOs”), such as the International Commission for the Conservation of Atlantic Tunas (“ICCAT”) and the Indian Ocean Tuna Commission (“IOTC”). The management of the stocks by the RFMOs are effected through stock assessments, the setting of Total Allowable Catches (“TACs”), the allocation of country quotas and the development of compliance and control measures.

3. Profile of the Fishery

The tuna pole fishery uses surface gear to target schooling juvenile albacore in the southeast

Atlantic, largely for export to canning markets. Other tuna species that are landed include yellowfin and bigeye tuna, but these species make up less than five percent of the annual catch. However, some right-holders have now started targeting these tunas for sale on the sashimi markets in Europe, UK, USA and Japan.

Southern Atlantic albacore has been commercially fished since the 1950's. Total landings had fluctuated around 24 000 tons between 1965 and 1985. Thereafter landings increased to approximately 30 000 tons, before dropping to the present levels of approximately 6 200 tons per year.

The fishing nations that target albacore in the south Atlantic are Chinese Taipei (averaging 16 800 tons between 1998 and 2002), South Africa (6 200 tons), Brazil (4 000 tons) and Namibia (2 300 tons). The South Atlantic albacore stock is not over-exploited, despite catches exceeding the global TAC for several years.

As ICCAT has not issued country allocations for the South Atlantic albacore stock, the South African fishery is managed by the Department through a total applied effort ("TAE") of 200 vessels carrying a maximum of 3 600 crew.

Over the years, three types of vessels have emerged in this fishery. The first were large vessels with onboard refrigeration, capable of spending substantial periods at sea with a crew of 20 or more. The second type were small vessels that carried less than 20 crew, spending no more than one night at sea and keeping tuna on ice. The third type were even smaller vessels, carrying less than 10 crew and using only "pole" gear.

Some 165 vessels are authorised to target tunas using the pole. More than 2 700 crew are employed on these vessels. The fishery is not capital intensive, but locating and fishing for tuna using the pole method requires a skilled crew.

4. The medium-term rights allocation process

In 2002, the Department allocated 152 commercial tuna pole fishing rights, thereby authorising 165 vessels and more than 2 700 crew to target tuna using the pole method. Of the rights allocated, 20.5 percent were allocated to blacks or black-owned and controlled entities. Ninety (90) percent of the workers in this fishery are black.

Only 29 percent of the right-holders in this fishery are legal entities. The remainder are natural persons or individuals.

5. Over-arching sectoral objectives

The objectives of allocating long-term fishing rights in the tuna pole fishery are to:

- Significantly increase the transformation profile of the fishery;
- Encourage further investment in vessels, infrastructure and jobs, particularly by historically disadvantaged persons;
- Improve South Africa's record of performance in the tuna fisheries;
- Allocate rights to small- and medium-sized enterprises (including individuals) who rely on the tuna pole fishery for a substantial portion of their income;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

6. Duration of Rights

Having regard to –

- the transformation profile of the fishery; and
- the need to increase the catch performance of right-holders,

rights will be allocated for a period of eight years (01 January 2006 to 31 December 2013). Every

right-holder will, however, be tested at regular intervals against predetermined performance criteria (see Paragraph 13 below).

7. New entrants

The tuna pole fishery is currently under-subscribed and there is room for a number of additional participants. Furthermore, the transformation profile of the fishery is unsatisfactory. Therefore, it is accordingly anticipated that a number of new entrants will be allocated rights in the fishery.

8. Evaluation criteria

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

8.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgement of applications and material defects, the Department 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 and individuals (i.e. sole proprietors or natural persons). Applications from trusts will not be considered.

- (b) Compliance:** Applicants, including the directors or controlling shareholders, that have been convicted of a serious transgression of the MLRA (without the option of the payment of a fine) will be excluded. Applicants, including the directors or

controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also be excluded. In addition, those right-holders that failed to submit 50 percent or more of their catch returns will be excluded.

Minor breaches of the MLRA will adversely affect the evaluation of applications, as set out below.

- (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 9 below*).
- (e) **Non-utilisation:** Right-holders that failed to utilise their medium-term commercial tuna pole right between 2002 and 2004 will not be re-allocated a tuna pole right.

8.2 Balancing criteria

Although the following criteria will generally be applied to right-holder applicants and new entrant applicants, the weighting that will be applied to each category will differ.

- (a) **Transformation**
Currently, only 20 percent of right-holders in this fishery are black-owned. Ten percent are black-managed.

Accordingly, applicants will be assessed and scored on –

- The percentage black and women representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;

- The representivity of blacks and women at the various levels below management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

Applicants will be evaluated by having regard to investments made in the tuna pole fishery.

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

- Investments in suitable vessels. In this regard, investment in the form of shareholding will be considered. Right-holder applicants will not be rewarded for having concluded purchase agreements, charter agreements or catching agreements.
- Investments in processing and marketing infrastructure. In this regard, the Department will reward right-holder applicants that have invested in tuna processing and marketing initiatives.

New entrant applicants will have to show whether they have invested in a vessel and in what form. New entrant applicants must also show whether they have invested in any processing and marketing initiatives, or whether they have access to marketing facilities.

(c) Fishing performance

Right-holder applicants will be assessed by having regard to their performance in the tuna pole fishery over the medium-term period. In particular, right-holder applicants that targeted traditional linefish stocks over tuna will be penalised.

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to target tuna.

(d) Reliance on tuna

The Department will prefer applicants who rely on tuna fishing for 50 percent and more of their annual income. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry will be penalised.

(e) Value-adding

The Department will have regard to the manner in which tunas harvested by right-holders have been processed and/or marketed.

New entrant applicants will be required to demonstrate how they intend to market tuna. They will be scored on these plans.

(f) Local economic development

The Department will prefer those applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas such as Cape Town.

The Department will favourably consider those right-holder applicants that undertake to invest in and land their catches at smaller fishing harbours, such as Port Nolloth.

(g) Jobs

The tuna pole fishery is a labour intensive fishery, employing about 2 700 crew. It is, however, capable of employing as many as 3 600 crew under the present TAE

limitations. Although the Department recognises the seasonal nature of the tuna pole fishery, it does encourage the provision of permanent jobs or greater levels of job security. The Department will reward those applicants who have provided their employees, or who undertake to provide their employees, with –

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

The Department will also have regard to the wage differentials between the highest and lowest paid employees.

(h) Non-payment of fish levies

The Department requires every right-holder to pay a levy on the targeted fish landed. A number of right-holders have either not paid their levies owed to the Department or have under-reported catches to, *inter alia*, avoid the payment of levies.

In the latter case, right-holders that have been found to have under-reported catches will not be allocated a fishing right, or if allocated, the right will be revoked. In the former case (non-payment of levies owed to the Department), right-holder applicants will be penalised. However, should right-holder applicants still qualify for a right, a fishing permit will not be issued until the total amount of levies payable (plus interest) has been paid to the Department.

(i) Compliance

Right-holders, including their directors or controlling shareholders, who are being investigated for breaches of the MLRA will not be allocated a tuna pole fishing

right until the outcome of the investigation is known.

Minor infringements of the MLRA, including its regulations, by the applicant, its directors or controlling shareholders, will be negatively scored.

8.3 Effort allocations

Due to the fact that the fishery was under-subscribed over the medium-term period, the Department was able to allocate to each successful applicant the number of vessels nominated. If the fishery remains under-subscribed, the Department will allocate to each successful applicant the number of vessels nominated. However, if the number of vessels nominated by successful applicants exceeds the effort available, the Department will allocate one vessel to each successful applicant and the remaining vessels to those successful applicants that scored the highest for transformation criteria.

9. Suitable vessels

A suitable vessel in the tuna pole fishery is a vessel that:

- has a minimum SAMSA certified length of approximately 10 metres. Smaller vessels may be considered, provided they can demonstrate a catch record in the tuna pole fishery;
- has a functioning vessel monitoring system; and
- is equipped with freezer or ice facilities.

10. Multi-sector involvement

Right-holders in the tuna pole fishery (including their controlling shareholders and members of their executive management team) will not be precluded from holding commercial fishing rights in the Cluster A and Cluster B fisheries. Tuna pole right-holders will, however, not be permitted to hold

commercial fishing rights in the Cluster C and Cluster D fisheries.

11. Application fees and levies

The application fee for the tuna pole fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews. In this regard the costs incurred during the medium-term process will be used as a guide; 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 revised, after consultation with affected and interested parties.

12. Management measures

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

12.1 *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 that recognises that fishing and associated land-based activities impact on the broader marine environment. The EAF in the tuna fisheries will be detailed in the Tuna Pole Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

12.2 *Consolidation of participants*

Subsequent to the allocation of the eight-year commercial fishing rights in the tuna pole fishery, the Department will facilitate the consolidation of the right-holders active in the fishery. Right-holders may consolidate their respective business operations

- Where right-holders share the same shareholders, offices or management team; or
- Where smaller right-holders opt to consolidate their business operations so as to further increase the transformation profile of this fishery.

Consolidation of right-holders is, however, subject to the Department's approach to monopolies (**see paragraph 12.4 below**). In addition, consolidation will not be supported by the Department where it could result in the reduction of the transformation profile of the tuna pole fishery.

12.3 *Vessels and fishing effort*

There are presently 140 tuna pole vessels in this fishery. The fishery is able to sustain 200 vessels and 3 600 crew. The fishery is therefore not optimally exploited.

12.4 *Monopolisation*

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.

13. 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 one year and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after consulting with right-holders, the following broad performance-related

criteria may be used:

- transformation;
- investment in vessels and gear;
- catch performance;
- compliance with applicable laws and regulations.

14. 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.

15. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions applicable to this fishery for the 2005 season are attached as **Annexure A**. Interested and affected parties are invited to comment on these permit conditions.