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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF COMMERCIAL
FISHING RIGHTS IN THE KWAZULU-NATAL PRAWN TRAWL 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)**

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1. Introduction

This policy on the allocation and management of commercial fishing rights in the KwaZulu-Natal prawn trawl fishery (hereafter also the “KZN prawn trawl fishery”) 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 KZN Prawn Trawl 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 KZN Prawn Trawl Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General KZN Prawn Trawl Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont KZN Prawn Trawl Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial KZN prawn trawl 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 KZN prawn 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 of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate commercial KZN prawn trawl fishing 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

White prawns (*Penaeus indicus*), brown prawns (*Metapenaeus monoceros*) and tiger prawns (*Penaeus monodon*) occur on the shallow water mud banks along the north east coast. Bamboo prawns (*Penaeus japonicus*) are also occasionally trawled on the St Lucia grounds. These prawn species grow fast and have a life-span of approximately one year. Eggs are carried on the abdomen of females. Larvae hatch during the second half of the year, and are transported by currents into estuaries along the KZN coast, where they remain up to the first quarter of the following year and grow into juveniles. Juvenile prawns move out of estuaries and recruit onto the mud banks, where they grow to maturity and reproduce, thus closing the life cycle.

Deep water species include pink (knife) and red prawns *Haliporoides triarthrus* and *Aristaeomorpha foliacea*, langoustines *Metanephrops mozambicus* and *Nephropsis stewartii*, red crab *Chaceon macphersoni*, and deep-water rock lobster *Palinurus delagoae*. The life cycles of these species are diverse, but some (such as rock lobster) are slow- growing and long-lived, making them more vulnerable to fishing. Little is known about the biology of the deep-water prawns and langoustines.

3. Sector profile

The KZN prawn trawl fishery is based in Kwazulu-Natal (KZN) and consists of two components: an inshore fishery (5 to 40m depth) on the Tugela Bank and at St Lucia in an area of roughly 400 square kilometres; and an offshore fishery (100 to 600m depth) extending from Cape Vidal in the north to Amanzimtoti in the south, covering approximately 1 000 square kilometres along the edge of the continental shelf.

Up to the 1960s, trawling was sporadic, but thereafter the sector comprised up to 12 companies and 21 vessels, many of which also fished in Mozambique. Regular statistics were collected from 1988 onwards.

Catches and catch rates of individual species or groups of species fluctuate widely, sometimes as a result of fishing strategy (targeting of specific species) rather than fluctuations in abundance. The abundance of shallow-water prawns depends on rainfall patterns and their effects on the flushing of estuaries where larval and juvenile prawns develop. In general, the last two decades have seen declines in the landings of white prawns, pink prawns, langoustines, rock lobster and red crab.

The fishery is managed using a Total Applied Effort (*"TAE"*) strategy which limits the number of vessels permitted to fish on the inshore and offshore fishing grounds. A TAE of eight fishing permits has been maintained for the past decade.

The sector is capital-intensive and its infrastructure, marketing and product distribution is dominated by established companies. The fishery requires specialised trawling vessels and equipment and it is suitable for commercial fishing only. Fishing grounds are on the South African continental shelf and no foreign fishing vessels are allowed. Vessels are large steel trawlers of 24 to 40 metres overall length, with 500 – 1 000 hp engines. Trawl net sizes range from 25- to 60-metre footrope length, with stretched mesh tapering from 70 millimetres in the wings to 38 millimetres in the cod-end. Trawling takes place on a 24-hour basis, at speeds of two to three knots and an average drag duration of four hours. Trawlers carry about 15 crew and remain at sea for two to three weeks at a time.

Catches (by mass) of the KZN trawl fisheries consist of roughly 20 percent target species, 10 percent retained by-catch, and 70 percent discarded by-catch. The retained by-catch includes cephalopods (octopus, squid and cuttlefish), molluscs, and substantial quantities of several fish species. The discarded by-catch (juvenile or small fish, low-value crustaceans, elasmobranchs and molluscs) amounts to about 1 000 to 2 000 tons per annum.

Inshore trawling is seasonal, with good catches made between January and March off St Lucia, and from March to September on the Tugela Bank. Offshore trawling takes place year-round.

The boundary between the inshore and offshore fisheries is situated seven nautical miles from the shore between the St Lucia lighthouse and Zinkwazi.

Catches are size-sorted, graded, packed and blast-frozen at sea. Little value is added on land. Modest shore-based infrastructure, including berthing, re-packing, storage and marketing facilities, is situated in Durban. Frozen products are sold on local markets. The landed catch in the KZN prawn fishery is worth approximately R21 million per annum.

4. The Medium-term rights allocation process

Fishing rights were allocated in 2001 for a medium-term period of four years. Rights are held by five fishing companies (with a total of eight vessels), of which three right-holders (with five vessels) may fish in both the inshore and offshore fisheries, and the other two right-holders (with three vessels) are restricted to the offshore fishery only.

The Department's allocation records show that:

- An estimated 22 percent of right-holders are majority-owned by blacks;
- 30 percent of right-holders are managed by blacks; and
- the sector employs about 150 individuals, 88 percent of whom are black.

5. Over-all sectoral objectives

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

- Significantly improve the transformation profile of the KZN prawn trawl fishery;
- Create an environment that attracts investment and stimulates job creation;
- Support the economic viability of the fishery;
- Ensure the environmental sustainability of the fishery;

- Ensure that steps are taken to mitigate against avoidable by-catch, particularly catches of linefish species that are listed on recreational and prohibited species lists; and
- Ensure that, where possible, by-catch is landed and resources are not wasted.

Transformation will be an important consideration for the long-term rights allocation. An objective will be to ensure that the profile of the fishery more broadly reflects the demographic profile of the country. Although it is probable that the current number of vessels in the fishery (eight) will be maintained, the need for transformation will mean that it may not necessarily be existing right-holders that will be granted rights. New entrants that have transformed may be preferred over existing participants.

The rate of by-catch and the effect of prawn trawling on the benthic habitat are issues of great concern and the Department will reward applicants in this fishery who are able to indicate their intentions to introduce mitigating measures in this regard. The Department will increasingly insist that by-catch is landed, that resources are not wasted, and that right-holders seek to find markets for by-catch. However, the sale of by-catch that comprises linefish species that are listed on recreational and prohibited species lists will not be permitted.

6. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the capital intensity of the fishery; and
- the need to maintain the economic stability and increase the competitiveness of the fishery;

the Department intends to allocate commercial rights for a period of eight years (01 January 2006 to 31 December 2013), and subject to a review at regular intervals against predetermined performance criteria, including the attainment of transformation goals have been achieved (***see paragraph 14 below***).

7. New entrants

New entrant applicants will be considered and may be preferred over existing right-holders, particularly if their inclusion will assist in the transformation the KZN prawn trawl fishery.

8. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”, and thereafter assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will then be determined in order to select the successful applicants. A proportion of the effort will be allocated to each successful applicant.

8.1 Exclusionary criteria

Apart from the criteria described in the general policy pertaining to the lodgement of the 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. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a KZN prawn trawl fishing right. Right-holder applicants, including the directors or controlling

shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a KZN prawn trawl fishing right.

Right-holders, including their directors or controlling shareholders, who are currently being investigated for breaches of the MLRA whether criminal or administrative, will be not allocated a KZN prawn trawl fishing right before the conclusion of the investigation.

The Department requires every right-holder to pay a levy on targeted fish landed. A number of right-holders have either not paid their levies or have under-reported catches to, *inter alia*, avoid the payment of levies. The former will be penalised in the comparative balancing process as set out below. The latter will be excluded.. However, should such an applicant still qualify for a right, a fishing permit will not be issued until the total amount of outstanding levies (plus interest) has 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 9 below*).

8.2 Comparative balancing criteria

Right-holder applicants and new entrant applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application:

(a) Transformation:

As stipulated in the General Fisheries Policy, 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 of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

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

- Investments in vessels suitable for the harvesting of KZN prawn trawl. In this regard, investment in the form of shareholding will be considered;
- Investments in processing and marketing infrastructure.

As far as new entrant applicants are concerned, the Department will consider investments that have been made in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate whether they have the knowledge, skill and ability to participate in the KZN prawn trawl fishery.

(c) Jobs

The Department will reward those applicants that have provided 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.

(d) Performance

Financial performance will be measured, as indicated in the General Policy. In addition, the Department will have regard to the applicant's fishing performance, particularly with respect to the number of days spent fishing in South African waters as opposed to fishing in Mozambique or Tanzania.

(e) Payment of fish levies

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

(f) Compliance

Applicants that failed to comply with their obligations under the Skills Development Act, 97 of 1998, and the Skills Development Levies Act, 9 of 1999, and those that committed minor infringements of the MLRA (i.e. infringements that do not justify their exclusion) will be penalised.

(g) By-catch

The Department will seek to reward those right-holder applicants that have invested in and implemented measures to reduce the landing of by-catch species. The Department will also positively score applicants that land by-catch and have found markets for by-catch species (other than linefish species on recreational and prohibited species lists.)

8.3 Quantum allocation

The TAE is split between inshore and offshore areas of operation. Applicants will be permitted to apply for both inshore and offshore rights on the same vessel or on two different vessels. It must be noted that offshore vessels will not be permitted to fish inshore. Inshore vessels may, however, fish offshore.

9. Suitable vessels

The KZN prawn trawl fishery is a specialised fishery and applicants must have access to large ocean-going fishing vessels that are rigged to trawl for prawns. Fishing should be by bottom trawling with single net stern, or boom-operated twin or triple nets. Trawl nets shall have a maximum footrope length of 60 metres and stretched mesh tapering from 70 millimetres in the wings to 50 millimetres in the cod-end. Vessels must be fitted with functioning vessel monitoring systems.

10. Multi-sector involvement

Right-holders in the KZN prawn trawl fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the KZN prawn trawl fishery (including their 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.

Vessels employed in the KZN prawn trawl fishery may not be used in other sectors.

11. Landing sites

The South African ports of Durban and/or Richards Bay must be used to land catches. No other ports may be used.

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12. Application fees and levies

Marine resources are renewable resources and user pay principle will be applied. Application fees for the KZN Prawn Trawl fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals review applications. 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.

13. Management measures

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

13.1 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 associated land based activities impact on the broader marine environment. This part of the KZN prawn trawl fishery fishing policy does not attempt to provide a policy statement on EAF in the KZN prawn trawl fishery fishery. The EAF in the KZN prawn trawl fishery will be detailed further in the Fishery Management Manual for the KZN prawn trawl fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

13.2 By-catch

Bycatch in the KZN prawn trawl fishery is the subject of several research projects which have focused on the quantification of by-catch species; the impacts on linefish species and on ecosystems; the effects of excluder devices on by-catch rates; and the impact of a closed fishing season in the inshore fishery. All retained (but not discarded)

by-catch species and quantities must be declared by skippers. No spotted grunter (*Pomadasys commersonii*) that is caught by the KZN prawn trawl fishery may be sold. Sector specific regulations regarding discarded by-catch will follow the completion of the research projects.

13.3 Vessels

Eight vessels are presently authorised to fish in this sector. The current TAE (in terms of vessels and participants) has been maintained for a decade. However, only 50 to 60 percent of the available effort is applied in KZN; the remainder is latent. Some of the vessels fish in Mozambique for most of the year. No more than eight vessels will be permitted to participate in this sector.

13.4 Nationality of catch

Fish caught in Mozambique may be landed in Durban or Richards Bay, but must be accompanied by documentation stating their origin, i.e. the co-ordinates of the positions where fishing was undertaken, the fishing effort expended and the quantities landed.

13.5 Precautionary principle and sustainability

This is a specialised fishery open to local commercial fishing only. The fishery is comparatively small and no reliable stock assessments of the target species have been performed. The KZN trawling grounds are small and unlikely to expand. A precautionary approach towards managing effort in the fishery will be taken until satisfactory assessments of the stocks and the ecological impacts of fishing have been assessed.

The Department recognises that the variability and unpredictability of the resource limits the profitability of the fishery. The performance of the fishery will be closely monitored and the objective is to manage it effectively and sustainably.

14. Performance measuring

The Department will institute a number of formal 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 four 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 and gear;
- sustainable utilisation, and in particular the ecological impacts of trawl fishing;
- compliance with applicable laws and regulations.

15. 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.

16. 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.