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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 397 OF 2005

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

INVITATION TO COMMENT ON THE DRAFT POLICIES CONCERNING THE ALLOCATION AND MANAGEMENT OF LONG TERM FISHING RIGHTS IN THE HAKE LONGLINE, SEAWEED, SHARK DEMERSAL, SQUID, TUNA POLE AND WEST COAST ROCK LOBSTER (OFFSHORE) FISHERIES, 2005.

The Minister of Environmental Affairs and Tourism hereby issues for notice and comment a **draft** fisheries policy on the allocation and management of long term commercial fishing rights. Interested and affected **parties** are invited to submit written comment on these Draft Policies on the Allocation and Management of Long Term Fishing Rights 2005 in the manner provided for in this Notice.

1. Hake Longline (English - Annexure A, Afrikaans – Annexure B)
2. Seaweed (English - Annexure C, Afrikaans – Annexure D, isiXhosa – Annexure E)
3. Shark Demersal (English - Annexure F, Afrikaans – Annexure G)
4. Squid (English - Annexure H, Afrikaans – Annexure I)
5. Tuna Pole (English - Annexure J, Afrikaans – Annexure K)
6. West Coast Rock Lobster (Offshore) (English - Annexure L, Afrikaans – Annexure M)

IN THE CASE OF INCONSISTENCY BETWEEN THE ENGLISH, AFRIKAANS AND ISIXHOSA TEXT, THE ENGLISH TEXT PREVAILS

These fishery specific policies must be read with the Draft General Policy on the Allocation and Management of Long Term Fishing Rights, 2005. Interested parties may submit written comments to the Department by 17h00 on Monday 4 April 2005 in the following manner:

<p>Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>	<p>Per Post: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Posbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>	<p>Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>
		<p style="text-align: center;">By Hand</p> <p>Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieeringsseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar</p>

Copies of all of the draft policies are also available on the Department's official website www.mcm-deat.gov.za. Hard copies may also be collected from the Department's fishery control offices along the coast. More information regarding the Long Term Rights Allocation Process can be obtained from the following helpline: **0861 123 626**

Please note that comments received after the closing date may be disregarded.

Telephonic queries regarding the submission of comments may be directed to the Rights Verification Unit at **(021) 670-3669**.

DRAFT



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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE
DEMERSAL SHARK 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))**

TABLE OF CONTENTS

1.	Introduction	3
2.	Profile of the fishery	4
3.	Over-arching fishery objectives	5
4.	Duration of rights	5
5.	New entrants	6
6.	Evaluation criteria	6
6.1	Exclusionary criteria	6
(a)	Form of the applicant:	6
(b)	Compliance:	7
(c)	Paper quotas:	7
(d)	Access to a suitable vessel:	7
(e)	Non-utilisation:	7
6.2	Comparative balancing criteria	7
(a)	Transformation:	7
(b)	Investment in the fishery	8
(c)	Performance	8
(d)	Reliance on demersal shark	9
(e)	Local economic development	9
(f)	Jobs	9
(g)	Non-payment of fish levies:	9
6.3	Effort allocations	10
7.	Suitable vessels	10
8.	Multi-sector involvement	11
9.	Application Fees and Levies	11
10.	Management measures	11
10.1	Ecosystem approach to fisheries management:	11
10.2	By-catch mitigation:	12
11.	Performance measuring	12
12.	Observer programme	13
13.	Permit conditions	13

1. Introduction

This is a draft policy on the allocation and management of commercial fishing rights in the demersal shark 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 shall be submitted as follows:

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Hake Longline 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 Hake Longline Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Hake Longline Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Hake Longline Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial demersal shark 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 Demersal Shark 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 demersal shark 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. Profile of the fishery

After interest in the tuna longline fishery waned in the mid 1960's, fishers turned their attention to other more lucrative stocks. Fishers used longline gear to target hake and kingklip under the guise of shark permits. When the Department reduced the by-catch limits of hake and kingklip in the shark fishery fishing effort decreased exponentially. Prior to 1998 more than 30 permits were issued to target shark, but due to poor performance in the fishery the TAE was reduced to 23 permits in 1998. The TAE was further reduced for 2004 to 11 permits due to poor performance.

The current shark longline fishery targets both pelagic sharks (blue and mako sharks) and demersal sharks (hound sharks, namely *Galeorhinus galeus* and *Mustelus mustelus*) by using either surface or bottom set gears respectively. In general the vessels targeting hound sharks are often smaller than those targeting pelagic sharks as the area of operation is restricted to coastal waters. As the gear used to target blue and mako sharks is similar to that targeting tunas and swordfish a management decision was taken to remove pelagic shark fishing from the shark longline sector and manage it as part of the large pelagic sector from the start of 2006. With effect from 01 January 2006, there will no longer be a targeted pelagic shark fishery.

Many shark permit holders hold other permits in sectors such as demersal shark, hake longline and tuna pole. Consequently, the shark fishery is generally used to keep the vessels busy when not engaged in other sectors.

Sharks are generally long-lived species that display low fecundity, slow growth rates and late maturation, which makes them particularly susceptible to overexploitation. Further, sharks are apex predators and the removal of these species could drastically alter marine ecosystems. Shark recruitment is strongly associated with adult biomass. Accordingly, the more adults in a population

the more productive the fishery.

The number of vessels active in the demersal fishery has fluctuated annually, with the number steadily increasing to 14 vessels in 1999. Only five vessels were active in 2003. As the fishery is seasonal (with highest catch rates experienced in winter) it is difficult to assess yearly CPUE, which has fluctuated widely. Prior to 2001 catches of *G. galeus* averaged 34 MT per year, but since 2001 catches have declined to below 20 MT per year, with less than 3 MT landed in 2004 (the second lowest catch on record). In 2001-2002 a stock assessment indicated that the main targeted species *Galeorhinus galeus* was optimally exploited, despite only three longliners operating in 2001 and two in 2002. This result confirms the sharks cannot sustain large fisheries.

3. Over-arching fishery objectives

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

- Substantially increase the transformation profile of this fishery;
- Permit only the targeting of demersal sharks. Pelagic sharks may not be targeted;
- Reduce the by-catches of hake and kingklip;
- Encourage value adding to demersal sharks to increase the value of fish caught; and
- Ensure the environmental sustainability of the fishery.

4. Duration of rights

Having regard to –

- the transformation profile of the fishery; and
- the present marginal state of this fishery,

the Department will allocate commercial rights for a period of eight years (01 January 2006 to 31 December 2013), subject to review at regular intervals against predetermined performance criteria, including the attainment of agreed transformation goals (*see Paragraph 11 below*).

5. New entrants

New entrant applicants will be considered to replace those right holders who have failed to give effect to their transformation plans, who have failed to perform and/or who have not complied with the provisions of the Marine Living Resources Act.

The Department does not foresee authorising more than 6 vessels to target demersal sharks.

6. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and 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 then be determined in order to select the successful applicants. A proportion of the TAE will then be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

6.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgment 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 71 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.

- (b) **Compliance:** Applicants, 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 demersal shark fishing right. 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 demersal shark fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified 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 7 below*).
- (e) **Non-utilisation:** Right-holders that failed to utilise their medium-term commercial shark demersal fishing right between 2002 and 2004 will not be re-allocated a shark demersal fishing right.

6.2 ***Comparative balancing criteria***

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

(a) **Transformation**

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 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 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 demersal shark processing and marketing initiatives.

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

(c) Performance

Right-holder applicants will be assessed by having regard to their demersal shark fishing performance over the medium-term period (2002 to 2004).

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for demersal shark.

(d) Reliance on demersal shark

The Department will prefer applicants who rely on demersal shark fishing for more than 30 percent of their gross annual income. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry will be penalised.

(e) Local economic development

The Department will positively score those applicants that elect to land their catches at small harbours.

(f) Jobs

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.

(g) 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 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, if any such applicant qualifies 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.

(h) Compliance

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

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

6.3 Effort allocations

The Department will allocate a maximum of six fishing rights authorising a maximum of 6 fishing vessels access to the fishery. Accordingly, each successful applicant will be entitled to use only one vessel.

7. Suitable vessels

A suitable vessel in the demersal shark fishery is a vessel that:

- has a minimum SAMSA certified length of approximately ten metres. Smaller vessels may be considered on the basis of their demersal shark fishing performance;
- has a functioning vessel monitoring system; and
- is geared for demersal shark fishing.

8. Multi-sector involvement

Right-holders in the demersal shark 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. Demersal shark right-holders will, however, not be permitted to hold commercial fishing rights in the Cluster C and Cluster D fisheries.

9. Application Fees and Levies

The application fee for the demersal shark 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.

10. Management measures

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

10.1 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 demersal shark fishery policy does not attempt to provide a policy statement on EAF in the demersal shark fishery. The EAF in the demersal shark fishery will be detailed further in the Demersal Shark Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

10.2 *By-catch mitigation*

The by-catches of hake and kingklip in this sector are of concern. Current by-catch limits for these species will be retained and may be reduced further. By-catch limitations will also be introduced for blue and mako sharks to prevent the targeting of these species.

11. 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 a year, 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;
- by-catch mitigation;
- demersal shark catching performance; and
- compliance with applicable laws and regulations.

12. 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.

13. Permit conditions

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

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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 HAKE LONGLINE
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)**

TABLE OF CONTENTS

1.	Introduction	3
2.	Profile of the fishery	4
3.	The medium-term rights allocation process	5
4.	Over-arching sectoral objectives	5
5.	Duration of rights	6
6.	New entrants	6
7.	Evaluation criteria	7
7.1	Exclusionary criteria	7
(a)	Form of the applicant:	7
(b)	Compliance:	7
(c)	Paper quotas:	7
(d)	Access to a suitable vessel:	8
(e)	Non – utilisation	8
7.2	Balancing criteria	8
(a)	Transformation	8
(b)	Investment in the fishery	9
(c)	Fishing performance	9
(d)	By-Catch and Dumping	9
(e)	Local economic development	10
(f)	Jobs	10
(g)	Reliance on hake longlining	11
(h)	Non-payment of fish levies	11
(i)	Compliance	11
7.3	Quantum criteria	12
8.	Suitable vessels	12
9.	Multi-sector involvement	13
10.	Application fees and levies	13
11.	Management measures	13
11.1	Ecosystem approach to fisheries management	13
11.2	Fisheries management areas	14
11.3	Consolidation of participants	14
11.4	Vessels and fishing effort	14
11.5	Monopolisation	15
11.6	TAC Ratios – trawl:longline	15
12.	Performance Measuring	15
13.	Observer Programme	16
14.	Permit Conditions	16

1. Introduction

This is a draft policy on the allocation and management of commercial fishing rights in the hake longline fishery and is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“the Department”) for public comment. Interested and affected parties are advised that 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 Hake Longline 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 Hake Longline Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Hake Longline Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Hake Longline Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial hake longline fishing rights. Many of these considerations are not new. They have been applied by 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. A Hake longline 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 hake longline commercial 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. Profile of the fishery

When compared to the South African hake trawl fishery, the hake longline fishery is relatively new. Longlining started in 1982. Between 1985 and 1990 much of the long line activity was re-directed from hake to kingklip as the latter was significantly more valuable. Due to concerns about the status of hake stocks, longlining for hake was terminated in 1990. Hake longlining was reintroduced as an experimental fishery in 1994. Commercial fishing rights under the MLRA were issued in 1999 and 2000, but these allocations were set aside by the courts. Stability was achieved in 2001 with the allocation of four-year commercial hake longline fishing rights.

The hake longline fishery generates some 3 600 permanent jobs and a further 3 200 part-time jobs. Historically disadvantaged persons occupy more than 90 percent of these jobs. The average annual income for crew is R38 500.

The hake longline fishery is not a highly capital intensive fishery. The longline industry lands prime quality hake for export to Europe and the value of prime quality hake is approximately 50 percent higher than trawled hake. The total value of fish landed in the hake longline fishery is estimated to be worth more than R130 million per annum. The market value of vessels operating in the fishery is estimated to be about R750 million.

The Department manages the hake longline fishery as part of a “*hake*” collective. In terms of the MLRA, a “*global*” total allowable catch (“*TAC*”) for hake is set annually by the Minister of Environmental Affairs and Tourism. The hake longline and handline fisheries share 10 percent of the global TAC. The hake deep sea trawl fishery is allocated 83 percent of the TAC and the balance is fished by the hake inshore trawl fishery. Until 2004, 1 000 tons was set aside for foreign fishing. This allocation will be discontinued.

Hake longline fishing takes place along the west and south east coasts. The fishery operates out of harbours from Port Nolloth to Port Elizabeth. The fishery operates in offshore and inshore waters. Inshore hake longlining is restricted to the use of no more than 4 000 hooks per line. Offshore longlining may only take place in depths greater than 110 metres and is restricted

to the use of no more than 20 000 hooks per line. Vessels and operating costs differ between inshore and offshore operations.

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

The hake longline fishery was identified in 2001 as a fishery that was ideally suited for the empowerment of small and medium enterprises and historically disadvantaged fishers. In 2001 and 2002, the Department allocated 207 commercial hake longline rights for a four year period. Historically disadvantaged persons now control 90 percent of the TAC and 80 percent of right-holders are small- and medium-sized enterprises. The Department's objectives with regard to the empowerment of historically disadvantaged persons and small- and medium-sized enterprises were achieved in this allocation process.

4. Over-arching sectoral objectives

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

- Maintain or improve the transformation profile of this fishery;
- Encourage further investment in vessels, infrastructure and jobs, particularly by historically disadvantaged persons;
- Reduce by-catch and eliminate bird strikes;
- Facilitate further research into the impact of longlining on hake stocks;
- Continue to affirm applicants whose registered place of business is in the Eastern Cape; 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 number of full time jobs provided (and to further encourage the conversion of part-time employment into permanent jobs);
- the need to maintain the economic stability that currently prevails in the fishery; and
- the fact that the hake resource is well managed with reliable and current data,

the Department will allocate commercial rights for a period of 15 years (01 January 2006 to 31 December 2020). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria (**see Paragraph 13 below**).

6. New entrants

South Africa's hake stocks are presently managed in terms of a conservative management plan as there are concerns that the current level of fishing effort may not be sustainable in light of decreasing catch rates and increasing catch efficiency. In the longline fishery, the accommodation of large numbers of new entrants has also resulted in much uncertainty and a lack of substantial investment in infrastructure and human resources.

The Department intends to reduce the number of right-holders and vessels from the current 207 right-holders and 104 vessels. The level of transformation in the fishery is satisfactory and a large number of SMEs operate in the fishery. New entrant applicants will therefore only be selected over poorly performing right-holders.

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 to select the successful applicants. A proportion of the TAC will be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

7.1 *Exclusionary criteria*

In addition to the exclusionary criteria stated in the General Fisheries Policy relating to improper lodgements and material defects, the following exclusionary criteria will be applied to both right-holder applicants and new entrant applicants:

- (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 (ie. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Applicants, including the directors or controlling shareholders that have been convicted of an offence in terms of the MLRA (and sentenced to imprisonment without the option of the payment of a fine) will not be allocated a hake longline fishing right. 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 hake longline fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified below.
- (c) **Paper quotas:** A paper quota 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*).
- (e) **Non – utilisation:** Those right-holders that have failed to utilise their medium-term commercial hake longline right between 2002 and 2004 will not be re-allocated a right.

7.2 **Balancing criteria**

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

(a) **Transformation**

Currently, 89 percent of right-holders in this fishery are black owned and managed. These right-holders collectively control 90 percent of the TAC. Further, small and medium sized enterprises make up 80 percent of right-holders.

The Department's objective during the process of allocating long-term fishing rights in this fishery is to maintain or improve on the present levels of transformation. 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 executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

Applicants will be evaluated having regard to investments made in the hake longline 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 marketing infrastructure. The Department will reward right-holder applicants that have invested in hake 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 marketing initiatives or whether they have access to marketing facilities.

(c) Fishing performance

Right-holder applicants will be assessed by having regard to their hake longline fishing performance and record during the medium-term rights allocation period.

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for hake using the longline method.

(d) By-Catch and Dumping

The amount of by-catch, particularly of kingklip (*Genypterus capensis*), harvested by participants in the hake longline fishery remains of concern to the Department. Measures to limit the catches of the high value by-catch species

such as kingklip are necessary because it is inevitable that such species will be subjected to some degree of targeting. Present catch rates indicate that catches of Kingklip are above sustainable levels, and that kingklip abundance on the South Coast is particularly low.

The Department has therefore determined the maximum annual by-catch allowance for kingklip to be 3 000 tons. This by-catch allowance shall apply to the hake fishery as a whole. Right-holder applicants will be required to demonstrate what by-catch mitigation and reduction measures they have been implementing, or would invest in, to ensure adherence with the above by-catch limitation.

The dumping of fish is prohibited and right-holders that are found to be dumping fish may not have a right allocated or if allocated a right, the right may be revoked in terms of section 28 of the MLRA.

(e) Local economic development

Investment in a number of South Africa's smaller coastal towns is required. The Department will accordingly prefer those applicants, particularly smaller right-holder applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas of Port Elizabeth and Cape Town. Larger hake longline right-holders that have invested in facilities in Cape Town and Port Elizabeth will not be penalised.

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

(f) Jobs

The hake longline fishery provides an estimated of 6 800 jobs. On average, sea-going employees ear approximately R38 500 per year. Generally speaking, fair labour practices prevail in this sector.

The Department will prefer those applicants that have provided their employees with –

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

In the case of existing right-holders, jobs created per ton of fish allocated during the medium-term rights allocation process will be assessed and taken into account. The Department will also have regard to the wage differentials between the highest and lowest paid employees.

(g) Reliance on hake longlining

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

(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 or have under-reported catches to, *inter alia*, avoid the payment of levies. The former (non-payment of levies owed to the Department) will be penalised in the comparative balancing process as set out below. The latter will be excluded. 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 hake longline 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 result in the applicant being negatively scored.

7.3 Quantum criteria

As far as right-holder applicants are concerned, the Department will use as a basis the quantum allocated to right-holders during the 2005 season, and proportionately add to this amount the allocations of unsuccessful right-holder applicants and the allocations of those right-holders that did not apply. The following quantum pools will be applied:

- **Vessel owners:** Ten percent of the hake longline TAC will be set aside for affirming those small- and medium-sized enterprises that invested (100 percent) in their own hake longline fishing vessels prior to 30 January 2005; and
- Forty percent of the TAC will be re-distributed on the basis of **scores attained**, including transformation.

Successful new entrant applicants will be allocated a base quantum equivalent to that allocated to the lowest quantum allocated to successful right-holder applicants.

8. Suitable vessels

A suitable vessel in the hake longline fishery is a vessel that:

- has a maximum SAMSA certified length of approximately 30 metres for offshore hake longliners and 15 metres for inshore hake longliners;
- has a functioning vessel monitoring system;
- has an approved streamer line (tori line) which must be flown during the setting of each longline. The streamer must be deployed directly above the main line, provided that where two streamers are used, each streamer must be deployed on either side of the main line; and

- is modified in a way that ensures offal is dumped on the opposite side from where lines are hauled.

9. Multi-sector involvement

Right-holders in the hake longline fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the hake longline 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.

10. Application fees and levies

The application fee for the hake longline 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 provide a benchmark ; 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.

11. Management measures

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

11.1 *Ecosystem approach to fisheries management*

The 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 recognising that fishing and various land-based activities impact on the broader marine environment. This part of the hake longline fishing policy does not attempt to

provide a policy statement on EAF in the hake fisheries. The EAF in the hake fisheries will be detailed further in the Fishery Management Manual for the hake longline fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries, including hake.

11.2 Fisheries management areas

The hake longline fishery targets two species of hake along a substantial part of the coastline. Currently, an offshore and inshore component is permitted to operate on the southern coast. The expansive area in which they operate, coupled with a significant decline in the catch per unit effort, has resulted in hake longliners increasingly sharing fishing grounds with hake trawlers. The sharing of fishing grounds is problematic.

Section 15 of the MLRA makes provision for the declaration of fisheries management areas. The Department will consider declaring fisheries management areas in an attempt to manage the pressures being placed on hake and kingklip stocks and to reduce user conflict between longliners and trawlers.

11.3 Consolidation of participants

Subsequent to the allocation of the 15 year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery. Right-holders may want to 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.

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 104 hake longline fishing vessels that operate in South African waters. As many right-holders do not own the vessels they use, the Department

anticipates that many right-holders will seek to introduce further vessels after the allocation long-term fishing rights. The fishing stock is already subjected to unsustainable effort levels. The Department will therefore 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 will consult the Fishery Industrial Body on all applications to introduce further or new vessels into the fishery.

11.5 *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. 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:longline*

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

12. Performance Measuring

The Department will undertake formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first set of performance measuring exercises will take place two years after the allocation of rights, and thereafter every four 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;

- sustainable utilisation, and in particular by-catch mitigation and reduction and the biological and ecological impacts of longlining;
- compliance with applicable laws and regulations.

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 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.

DRAFT



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT

POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL HARVESTING RIGHTS IN THE SEAWEED SECTOR:
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)**

TABLE OF CONTENTS

1.	Introduction	3
2.	Sector profile	4
3.	The medium-term rights allocation process	5
4.	Over-arching sectoral objectives	6
5.	Duration of rights	6
6.	New entrants	7
7.	Evaluation criteria	7
7.1	Exclusionary criteria	7
(a)	Form of the applicant	7
(b)	Compliance	7
(c)	Paper quotas	8
(d)	Non- utilisation	8
7.2	Balancing criteria	8
(a)	Transformation	8
(b)	Investment in the sector	9
(c)	Ecosystem impacts	9
(d)	Value-adding	9
(e)	Local economic development	10
(f)	Jobs	10
(g)	Non-payment of levies	10
(h)	Reliance on seaweed	11
(i)	Empowerment of local communities	11
(j)	Compliance	11
8.	Concession areas and allocation	12
9.	Multi-sector involvement	12
10.	Application fees and levies	12
11.	Management measures	13
11.1	Ecosystem approach to fisheries management	13
11.2	Consolidation of participants	13
11.3	Vehicle use in the coastal zone	14
11.4	Monopolisation	14
12.	Performance measuring	14
13.	Observer and monitoring programme	15
14.	Permit conditions	15

1. Introduction

This is a draft policy on the allocation and management of commercial harvesting rights in the seaweed sector 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 Seaweed 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 Seaweed Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Seaweed Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Seaweed Policy Comments

Many of the considerations in this draft policy 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.

The Department will develop a Seaweed Sector Management Manual with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the sector.

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. Sector profile

Seaweed or kelp harvesting in South Africa is primarily directed at two species of large brown seaweeds, *Ecklonia maxima* and *Laminaria pallida*. These seaweeds are abundant in the cool, temperate waters between Cape Agulhas and Namibia. The South African coastline is, however, also home to a number of other species of seaweed. These include *Gelidium* and *Gracilaria*.

Beach-cast kelp of both species, *Ecklonia maxima* and *Laminaria pallida*, have been collected since at least 1953 in quantities that fluctuate with market demand, but reached a maximum of about 5 000 tons (dry weight) in 1977. Since then, an average of 1 312 dry weight tons have been collected with low yields between 1993 and 1995 reflecting strong international competition from Chinese alginate producers.

Beach-cast kelp is sun-dried, milled and exported mainly for the extraction of alginate. No commercial extraction occurs in South Africa due to strong international competition. Laboratory tests on South African kelps indicate alginate yields of between 22 percent and 40 percent. Recently, powdered kelp has been exported to Japan for use in formulated fish-feed. Fresh kelp has been harvested since 1979 in relatively small quantities for the production of a liquid plant-growth stimulant (Kelpak). The product contains cytokinins, that have been shown to improve the growth and quality of various food and horticultural crops. The recent growth of the abalone farming industry has created further demand for freshly harvested kelp.

Commercially viable quantities of *Gracilaria gracilis* occur in Saldanha Bay and *Gracilariopsis* occurs in St Helena Bay.

Commercially viable quantities of *Gelidium* have been harvested in the Eastern Cape since at least 1957. Four species (*G. pristoides*, *G. abbottiorum*, *G. pteridifolium* and possibly some *G. capense*) are capable of being harvested from the intertidal and shallow subtidal zones of concession areas 1, 20, 21, 22 and 23. An attempt was made to extract agar in the Eastern Cape from 1978-1982 but this proved uneconomical. The present levels and methods of exploitation have a negligible ecological effect. Exploitation levels are essentially controlled by limiting effort to only one commercial operator per concession area and yields are monitored. Furthermore, this species is difficult to fully remove by picking.

The seaweed sector is managed in terms of both a total applied effort ("TAE") and a total allowable catch ("TAC"). However, the principal management tool is effort control and the number of right-holders in each seaweed harvesting area is restricted. Essentially, each concession area is limited to one right-holder. In addition, in certain areas limitations are placed on the amounts that may be harvested.

Seaweed is harvested on a per area basis. The Department has divided the South African coastline (between Port Nolloth and Port St Johns) into 23 harvesting areas.

Very few right-holders harvest seaweed and add value to it. Currently, many right-holders harvest seaweed for feed for abalone farms. In terms of value adding, seaweed is used in specialised "*health-food*" products, fertilizers, as part of aromatherapy products and for cosmetic products.

The seaweed sector nevertheless employs over 1 700 people (313 on a permanent basis and 1 450 on a seasonal basis). Of these jobs, 92 percent are held by historically disadvantaged persons. The majority of workers are women.

The start-up costs for a new entrant may range from approximately R250 000 to R10 million. The operations are labour intensive and wage costs for the various right-holders range from R50 000 per annum to R1 783 000 per annum. Certain right-holders also invest in research and development and these investments range from R60 000 to R600 000 per annum.

3. The medium-term rights allocation process

Between 2001 and 2003, the Department allocated commercial seaweed harvesting rights to 13 enterprises. One exemption in terms of section 81 of the MLRA was granted in 2003.

In 1997, the commercial seaweed sector was completely dominated by white-owned and managed enterprises. Today, six out of 14 right-holders are black-owned and managed. Accordingly, 42.8 percent of right-holders are black. Of the 14 right-holders, seven (or 50 percent) are small- and medium-sized enterprises.

Of the 23 commercial areas, seaweed in areas 2, 3, 20 and 22 are currently not exploited at all. A map of the concession areas is attached as part of **Annexure A**.

4. Over-arching sectoral objectives

The over-arching objectives of allocating long-term harvesting rights in the seaweed sector are to:

- Improve the transformation profile of the sector;
- Encourage further investment in seaweed beneficiation;
- Increase the number of participants in this sector;
- Encourage current right-holders who do not engage in seaweed beneficiation to instead join with local communities in application for seaweed harvesting rights;
- Support the economic viability of the sector; and
- Ensure the environmental sustainability of the sector.

5. Duration of rights

Having regard to –

- the transformation profile of the sector;
- the need to maintain the economic stability that currently prevails in the sector; and
- the fact that the seaweed resource is well managed in terms of reliable and current data,

the Department will allocate commercial rights for a period not exceeding 10 years (01 January 2006 to 31 December 2015). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria (***see Paragraph 13 below***).

6. New entrants

Although a large proportion of the available concession areas are fully subscribed, a number of concession areas (areas 2, 3, 20 and 22) are not being exploited at all. In addition, many right-holders are not fully exploiting their rights. Further, certain right-holders do not harvest the resource themselves. The present transformation profile of this sector is below the fishing industry average which is approximately 66 percent.

In light of the above, the Department encourages applications from new entrants.

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 or rank will then be determined in order to select the successful applicants.

7.1 *Exclusionary criteria*

Apart from the criteria described in the General Policy pertaining to the lodgment 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. Applications from natural persons (i.e. individuals or sole proprietors) will not be considered. Right-holders that existed in the form of trusts must incorporate themselves as either a company or a close corporation.
- (b) **Compliance:** Right-holder applicants and new entrant applicants, including the directors or controlling shareholders, that have been convicted of a serious infringement of the MLRA (without the option of the payment of a fine) will not be allocated a seaweed harvesting right. Right-holder and new entrant

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 seaweed harvesting right. Other 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) **Non-utilisation:** Those right-holders that failed to utilise their medium-term commercial seaweed right between 2002 and 2004 will not be re-allocated a seaweed right.

7.2 ***Balancing criteria***

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

(a) **Transformation**

Currently, 42 percent of right-holders in this sector are black-owned and managed. Further, small- and medium-sized enterprises make up 50 percent of right-holders. Although the Department recognises the impressive strides made in this sector since 1997, further improvement in the transformation profile of the sector is necessary.

The Department's objective during the process of allocating commercial rights in this sector is to improve the present levels of transformation. Accordingly, right-holder 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 executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the sector

Both right-holder and new entrant applicants will be evaluated by having regard to investments made in the seaweed sector.

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

- Investments in processing, marketing; and
- Investments in research and the development of marketable seaweed products.

New entrant applicants will have to show how they intend processing and marketing seaweed and whether they have invested in any research into the harvesting and marketing of seaweed.

(c) Ecosystem impacts

Although, the concept of by-catch is not directly applicable to this sector, right-holder applicants will be evaluated on what steps they have implemented to ensure that the surrounding environment (both fauna and flora) were not negatively affected during harvesting. In particular, the destruction of limpets is prohibited. In addition, the authorized use of vehicles in the coastal zone must have been undertaken in accordance with the conditions set out by the Minister of Environmental Affairs and Tourism.

(d) Value-adding

The Department will have regard to the ability of applicants to add or indicate how they will add the maximum value to seaweed for both the local and international markets.

Value adding to seaweed is considered particularly relevant as it –

- can increase the number of jobs provided by the sector; and
- the South African seaweed industry is not internationally competitive in respect of value-adding.

(e) Local economic development

There is potential for seaweed harvesting to occur along a substantial part of our coast. The Department will endeavour to allocate at least one seaweed right in each of the 23 concession areas.

(f) Jobs

The seaweed sector employs some 1 450 people. Average annual salaries are R38 500 in this sector. The majority of employees are not employed on a full time basis.

Although the Department recognises the seasonal nature of the harvesting of seaweed, the Department does encourage the provision of permanent jobs or greater levels of job security for low skilled and unskilled staff. The Department will reward those applicants who have provided their employees, or who undertake to provide their employees, with –

- Full-time employment or secure annual 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.

(g) Non-payment of levies

The Department requires every right-holder to pay a levy on the seaweed harvested. A number of right-holders have either not paid their levies or have under-reported harvests 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, if any such applicant qualifies for a right, a permit will not be issued until the total amount of outstanding levies (plus interest) has been paid to the Department.

(h) Reliance on seaweed

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

(i) Empowerment of local communities

The Department considers the harvesting of seaweed to be an opportunity for the empowerment of the inhabitants of coastal communities, particularly those who may not be able to benefit from harvesting fish stocks such as abalone or west coast rock lobster. To this end, the Department will favourably consider applications from companies incorporated for the benefit of local communities and supported by those right-holders that have traditionally utilised their seaweed rights for non-beneficiation purposes.

(j) Compliance

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

Right-holders who have utilised vehicles in the coastal zone without authorisation will not be allocated a seaweed right.

8. Concession areas and allocation

There are currently 23 concession areas. The Department will reduce this number to 22 by consolidating areas 11 and 12 into one concession area.

The Department will continue to apply its policy of allocating one right per genus, per concession area. To date each area has been subjected to exploitation by a single right-holder. The exception has been area 11 where two right-holders shared the area, exploiting different genus of seaweed. The Department therefore encourages applicants (and in particular new entrant applicants) to not only apply for their “first choice of seaweed” but also for alternative seaweeds.

Accordingly, the Department will only allocate one seaweed right per genus, per concession area. In this way, the Department intends to accommodate multiple entities harvesting different genus of seaweed in each concession area. This approach is intended to have a positive impact on job creation and the innovative exploitation of, and value-adding to, seaweed.

9. Multi-sector involvement

Right-holders in the seaweed sector are not precluded from holding rights in any of the Cluster A and Cluster B fisheries. Right-holders in the seaweed sector (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.

10. Application fees and levies

The application fee for the seaweed sector 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 seaweed 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.

11. Management Measures

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

11.1 *Ecosystem approach to fisheries management*

This sector will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy recognising that fishing and associated land-based activities impact on the broader marine environment. This part of the seaweed policy does not attempt to provide a policy statement on EAF in the seaweed sector. The EAF in the seaweed sector will be detailed further in the Seaweed Sector Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries, including seaweed.

11.2 *Consolidation of participants*

Subsequent to the allocation of 10-year commercial rights in this sector, the Department will facilitate the consolidation of the number of right-holders active in the sector. 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.

Consolidation of right-holders is, however, subject to the Department's approach to monopolies (*see paragraph 11.4 below*).

11.3 Vehicle use in the coastal zone

Many seaweed right-holders have sought permission to use vehicles in the coastal zone since the prohibition of unregulated vehicle use on beaches in 2002. In 2004, the Minister of Environmental Affairs and Tourism amended the regulations that control vehicle use in the coastal zone (see www.mcm-deat.gov.za for the Regulations and Implementation Guideline).

Seaweed operators must apply to the Deputy Director-General of Marine and Coastal Management for permit to use a vehicle in the coastal zone if a vehicle is required for the harvesting of seaweed. The Department favours the employment of more harvesters over the employment of vehicles.

Application forms for vehicle use in the coastal zone will be made available along with the application forms for commercial seaweed harvesting rights. These application forms are also available from www.mcm-deat.gov.za.

11.4 Monopolisation

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

The Department will not at this stage determine any maximum number of areas a right-holder may exploit, but will monitor whether any right-holder acts in a manner contrary to fair competition practices.

12. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the commercial 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 seaweed rights and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- investment in value-adding and marketing initiatives;
- sustainable utilisation of seaweeds; and
- compliance with applicable laws and regulations.

13. Observer and monitoring Programme

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

14. Permit conditions

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

DRAFT



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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE
SQUID 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))**

TABLE OF CONTENTS

1.	Introduction	3
2.	Biology and resource dynamics	4
3.	Profile of the fishery	4
4.	The medium-term rights allocation process	5
5.	Over-arching fishery objectives	6
6.	Duration of rights	6
7.	New entrants	6
8.	Evaluation criteria	7
8.1	Exclusionary criteria	7
(a)	Form of the applicant:	7
(b)	Compliance:	7
(c)	Paper quotas:	7
(d)	Access to a suitable vessel:	7
(e)	Non-utilisation:	8
8.2	Comparative balancing criteria	8
(a)	Transformation:	8
(b)	Investment in the fishery:	8
(c)	Performance:	9
(d)	Reliance on squid:	9
(e)	Local economic development:	10
(f)	Jobs:	10
(g)	Non-payment of fish levies:	10
8.3	Empowerment of squid fishers	11
8.4	Effort allocations	11
9.	Suitable vessels	12
10.	Multi-sector involvement	12
11.	Application Fees and Levies	12
12.	Management measures	13
12.1	Ecosystem approach to fisheries management:	13
12.2	Consolidation of participants:	13
12.3	Vessels and fishing effort:	14
12.4	Monopolisation:	14
13.	Performance measuring	14
14.	Observer programme	15
15.	Permit conditions	15

1. Introduction

This is a draft policy on the allocation and management of commercial fishing rights in the squid 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 shall be submitted as follows:

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Squid 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 Squid Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Squid Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Squid Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial squid 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 Squid 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 squid 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

The squid fishery targets chokka squid (*Loligo vulgaris reynaudii*), the most abundant squid in South Africa's coastal waters.

Chokka squid is found between Namibia in the west and the Wild Coast in the east. Like all squid, they complete their lifecycle within two years. Sexual maturity is attained one year after hatching. Maximum length is 46 centimetres (male) and 28 centimetres (female). Chokka squid spawn on the seabed, usually in inshore areas, but sometimes in deep water on the Agulhas Bank. Spawning occurs year round, but is most prolific in the summer months. Chokka squid prey on crustaceans and fish.

The abundance of chokka squid fluctuates substantially. The effects of fluctuations in predation, prey availability and the physical environment are more acutely felt by squid because their short life span offers little inter-annual continuity.

Presently, chokka squid abundance is at near-record levels, but experience suggests that substantial declines can be expected.

3. Profile of the fishery

Chokka squid (hereafter referred to as squid) has been used as bait by linefishers for many years. The species is also landed as by-catch in the demersal trawl fisheries. In the 1960's and 1970's, the chokka squid resource was heavily exploited by foreign fleets. During this period, squid were caught predominantly by trawlers from the Far East. Foreign activity was phased out in the late 1970's and early 1980's following South Africa's declaration of an Exclusive Economic Zone ("EEZ"). However, squid and other cephalopods, including a number species of squid and octopus,

continued to be taken by South African trawlers. The chokka by-catch in the demersal fishery fluctuates between 200 tons and 600 tons annually.

A dedicated jig fishery for chokka was initiated in 1984. The jigs are operated by handlines, making this a particularly labour-intensive fishery. In 1989, the jig fishery registered its highest catch of 9 800 tons. Average catches in the 1990's amounted to between 6 000 and 6 500 tons per annum. Squid is frozen at sea, usually in 10 kilogram blocks. It is generally landed at harbours between Plettenberg Bay and Port Alfred and exported whole to Europe. In 2002, when the South African Rand was at its lowest levels against the major currencies, the price of squid rose to almost R50 per kilogram. The average price of squid in 2004 was R30 per kilogram.

Between 1986 and 1988 a licensing system was introduced with a view to limiting the number of vessels participating in the fishery. The fishery is currently regulated in terms of a total applied effort ("TAE"). The squid fleet is divided into vessel categories and the maximum crew complement for the vessels in each category is fixed. Since 1988, the fishery has been closed once a year for four weeks in an attempt to counter the effects of "*creeping effort*". Increases in vessel efficiency and catch technology have led to increases in fishing efficiency.

The chokka squid fishery provides employment for approximately 3 000 people, including land-based personnel. The landed catch is worth more than R180 million per year.

4. The medium-term rights allocation process

In 2001, the Department allocated rights to 128 commercial squid fishing enterprises, thereby authorising more than 2 400 crew to fish for squid on 145 vessels. Allocation records show that:

- 33 percent of right-holders are majority-owned by blacks;
- 61 percent of workers are black;
- almost all right-holders are small- and medium-sized enterprises ("*SMEs*").

The crew were allocated to vessels nominated by the successful applicants. The number of crew allocated to each vessel depended on the length of the vessels.

5. Over-arching fishery objectives

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

- Substantially increase the transformation profile of this fishery;
- Integrate the so-called “restricted rights” into the fishery;
- Affirm applicants who live in, or whose place of registered business, is the Eastern Cape;
- Encourage further investment in vessels, infrastructure and jobs, particularly by historically disadvantaged persons;
- Allocate rights to applicants who predominantly rely on squid for their income;
- Support the economic viability of the fishery;
- Ensure the environmental sustainability of the fishery.

6. Duration of rights

Having regard to –

- the transformation profile of the fishery; and
- the substantial fluctuations in resource abundance,

the Department will allocate commercial rights for a period of eight years (01 January 2006 to 31 December 2013), subject to review at regular intervals against predetermined performance criteria, including the attainment of agreed transformation goals (*see Paragraph 13 below*).

7. New entrants

Although the squid fishery is currently optimally exploited and there is no room for additional

participants, new entrant applicants will be considered and may be preferred over existing right-holders if their inclusion will assist in the transformation of the squid fishery.

8. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and 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 then be determined in order to select the successful applicants. A proportion of the TAE will then 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 lodgment 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 71 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Applicants, 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 squid fishing right. 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 squid fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified 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 squid fishing right between 2002 and 2004 will not be re-allocated a squid fishing right.

8.2 Comparative balancing criteria

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

(a) Transformation

Currently, only 33 percent of right-holders in this fishery are black-owned; 32 percent are black-managed.

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 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 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 squid processing and marketing initiatives.

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

(c) Performance

Right-holder applicants will be assessed by having regard to their squid fishing performance over the medium-term period (2002 to 2004).

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

(d) Reliance on squid

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

(e) Local economic development

The Department will positively score those applicants that elect to land their catches at small harbours, such as those along the Cape south coast and in the Eastern Cape Province.

(f) Jobs

The squid fishery is labour intensive and employs approximately 2 400 sea-going personnel. 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.

(g) 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 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, if any such applicant qualifies 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.

(h) Compliance

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

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

8.3 *Empowerment of squid fishers*

The Department will require all fishing crew who are intending to work on squid boats to register with the Department on its Squid Crew List. Those applicants who are successful in applying for a squid fishing right will be required to select their crew members from among those who are listed on the Squid Crew List.

8.4 *Effort allocations*

In the medium-term rights allocation process, the allocation of crew to vessels was determined in accordance with a formula premised on the length of the vessels nominated by the successful applicants. Successful applicants were allocated all the vessels nominated. The Department intends to revise this method of allocating effort.

Firstly, the Department will allocate crew based on the maximum crew complement authorised by the South African Maritime Association (“SAMSA”). The Department will reserve a pool of approximately 30 vessels for allocation to applicants that are transformed or who have invested in squid vessels. The Department will allocate one vessel to each successful applicant. The pool of reserved vessels will be allocated to those applicants that scored highest on transformation criteria and who requested more than one vessel.

9. Suitable vessels

A suitable vessel in the squid fishery is a vessel that:

- has a minimum SAMSA certified length of approximately eight metres. Smaller vessels may be considered on the basis of their squid fishing performance;
- has a functioning vessel monitoring system; and
- is equipped for squid fishing using the jigging method.

Vessels will be disqualified if the length had been artificially increased by the right-holder in an attempt to increase its crew complement.

10. Multi-sector involvement

Right-holders in the squid 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. Squid 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 squid 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 which recognises that fishing and associated land-based activities impact on the broader marine environment. This part of the squid fishery policy does not attempt to provide a policy statement on EAF in the squid fishery. The EAF in the squid fishery will be detailed further in the Squid 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*

After the allocation of eight-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
- 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 on 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

fishery.

12.3 Vessels and fishing effort

There are presently 163 squid vessels in this fishery. Although the current vessel effort levels may be optimal, should the TAE be revised downward, the number of vessels may have to be reduced. The Department will, however, first aim to curtail effort in this fishery by, *inter alia*, reducing the use of lights, closing areas to fishing and lengthening the closed season.

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 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 a year, 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 and gear;
- squid catching 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 is attached as **Annexure A**. Interested and affected parties are invited to comment on these permit conditions.

DRAFT



**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))**

TABLE OF CONTENTS

1.	Introduction	3
2.	Biology and resource dynamics	4
3.	Profile of the fishery	4
5.	Over-arching sectoral objectives	6
6.	Duration of rights	6
7.	New entrants	7
8.	Evaluation criteria	7
8.1	Exclusionary criteria	7
(a)	Form of the applicant	7
(b)	Compliance	7
(c)	Paper Quotas	8
(d)	Access to a suitable vessel	8
(e)	Non-utilisation	8
8.2	Balancing criteria	8
(a)	Transformation	8
(b)	Investment in the fishery	9
(c)	Fishing performance	9
(d)	Reliance on tuna	10
(e)	Value-adding	10
(f)	Local economic development	10
(g)	Jobs	10
(h)	Non-payment of fish levies	11
(i)	Compliance	11
8.3	Effort allocations	12
9.	Suitable vessels	12
10.	Multi-sector involvement	12
11.	Application fees and levies	13
12.	Management measures	13
12.1	Ecosystem approach to fisheries management	13
12.2	Consolidation of participants	13
12.3	Vessels and fishing effort	14
12.4	Monopolisation	14
13.	Performance measuring	14
14.	Observer programme	15
15.	Permit conditions	15

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.

DRAFT



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT

POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE WEST COAST ROCK
LOBSTER (OFFSHORE) 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

TABLE OF CONTENTS

1.	Introduction _____	3
2.	Biology and resource dynamics _____	4
3.	Sector profile _____	4
4.	The medium-term rights allocation process _____	6
5.	Over-arching sectoral objectives _____	7
6.	Duration of rights _____	7
7.	New entrants _____	8
8.	Evaluation criteria _____	8
8.1	Exclusionary criteria _____	8
	(a) Form of the applicant _____	9
	(b) Compliance _____	9
	(c) Paper quotas _____	9
	(d) Access to a suitable vessel _____	9
	(e) Non-utilisation _____	9
	(f) Applications for rights in the WCRL (nearshore) fishery _____	9
8.2	Balancing criteria _____	9
	(a) Transformation _____	10
	(b) Investment in the fishery _____	10
	(c) Fishing performance _____	11
	(d) Local economic development _____	11
	(e) Jobs _____	11
	(f) Reliance on west coast rock lobster _____	12
	(g) Non-payment of fish levies _____	12
	(h) Compliance _____	13
8.3	Quantum criteria _____	13
9.	Suitable vessels _____	13
10.	Multi-sector involvement _____	14
11.	Application fees and levies _____	14
12.	Management measures _____	14
	12.1 Ecosystem approach to fisheries management _____	14
	12.2 Consolidation of participants _____	15
	12.3 Vessels and fishing effort _____	15
	12.4 Monopolisation _____	15
13.	Performance measuring _____	16
14.	Observer programme _____	16
15.	Permit conditions _____	16

1. Introduction

This policy on the allocation and management of fishing rights in the west coast rock lobster (offshore) fishery is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“the Department”) for public comment. This fishery, which was previously referred to as the “full commercial” west coast rock lobster fishery, will now be referred to as the WCRL (offshore) fishery. A separate policy has been published for the west coast rock lobster fishery (nearshore), which was formerly referred to as the “limited commercial” west coast rock lobster fishery.

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 WCRL (Offshore) 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 WCRL (Offshore) Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General WCRL (Offshore) Policy Comments
		By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont WCRL (Offshore) Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial WCRL (offshore) 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 West Coast Rock Lobster (Offshore) 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 WCRL (offshore) 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

West coast rock lobster (*Jasus lalandii*) are slow-growing, long-lived animals. Female size at maturity varies and ranges from 57 millimetres carapace length (CL) to 66 millimetres CL. Male lobsters attain a larger size and grow faster than females. As a result of the size limit of 75 mm CL that is imposed on commercial fishers, male lobsters make up 90 to 99 percent of the catch.

West Coast rock lobster occur inside the 200m depth contour from just north of Walvis Bay in Namibia to East London. Commercial exploitation occurs from about 25°S in Namibia to Gansbaai on the Cape south coast. However, recreational fishing extends further eastwards to Mossel Bay.

3. Profile of the fishery

The current harvestable biomass is estimated at around eight percent of the pre-exploitation levels and spawning biomass at approximately 21 percent. This decline is largely a result of two effects: large unsustainable catches taken particularly during the first half of the 20th century and a substantial reduction in the somatic growth rate during the 1990’s.

Commercial fishing began in the 1880’s. The commercial fishery expanded rapidly in the early part of the 20th century. Although catch records prior to 1940 are sparse, catches appear to have peaked in the period 1950 to 1965, when between 13 000 and 16 000 tons were landed annually.

Prior to 1946, the commercial fishery was unregulated. In that year, a tail-mass production quota was imposed to control exports. This formed the basis of the “output-controlled” management philosophy that is still employed in the management of the west coast rock lobster resource today.

From 1946 onwards, annual quotas were granted, based primarily on the performance of the fishery in the preceding season. Until the mid-1960's, catches were directly controlled by these quotas. In the 1967/68 fishing season, catch rates began to decline and quotas could not be filled. Decreases in the Total Allowable Catch ("TAC") to between 4 000 and 6 000 tons restored some balance in the period 1970/71 to 1989/90.

The tail-mass production quota was replaced by a whole lobster (landed mass) quota, and management by means of a TAC was introduced in the early 1980's. Area or zonal allocations were introduced at the same time. Other management measures that were enforced early on were size limits and a closed season. Catches of berried or soft-shelled lobsters were banned. The 1990/91 season again saw the catch rates drop and, in the ensuing years, the commercial TAC was gradually reduced, reaching 1 500 tons in the 1995/96 season. Since then, there has been a slow recovery, with the commercial TAC being set at 3 527 tons for the 2004/2005 season.

Prior to the introduction of lobster traps in the 1960's, the commercial fishery depended almost exclusively on hand-hauled, hoopnets, which are light and easy to deploy from small boats in shallow waters. Hoopnets are seldom used at depths exceeding 30 metres. Hoopnet dinghies may either operate independently from the shore by means of an outboard motor or oars, or be transported to the fishing grounds by means of a motorized mother vessel (deckboat).

The west coast rock lobster fishery is made up of two distinct sectors: a commercial fishery and a recreational fishery. Recreational users may only fish using hoopnets from a boat or the shore, or practice breath-hold diving or poling from the shore. Recreational fishers may not sell their catch.

The WCRL (offshore) fishery is permitted to catch rock lobster in traps. In the medium-term rights allocation process, right-holders in this fishery were granted allocations of more than two tons each.

Right-holders in the WCRL (offshore) fishery use larger, more sophisticated vessels than right-holders in the WCRL (nearshore) fishery, which is restricted to using hoopnets in shallow water. The WCRL (offshore) fishery also employs larger numbers of crew.

The WCRL (nearshore) fishery replaced the subsistence fishery in 2001 in keeping with the recommendations of an independent review of subsistence fishing in South Africa. The review recommended that high-value subsistence fisheries such as west coast rock lobster, traditional linefish and abalone should be commercialised. The commercialisation of these fisheries has permitted fishers to sell and market their products.

The Department allocates 20 percent of the commercial west coast rock lobster TAC to the nearshore fishery and 80 percent to the offshore fishery. The reason for this split is that approximately 20 percent of the resource is located in the inshore region, while 80 percent is located offshore in deeper waters

The offshore fishery supports some 5 500 employees, 95 percent of whom are black. Of these, more than 2 500 are sea-going personnel, with the remainder employed in processing and marketing operations on land. West coast rock lobster fishing takes place between November and July and the average annual income over this period is R26 500. The annual value of west coast rock lobster catches is approximately R200 million. The approximate value of vessels in this fishery is R130 million.

The west coast rock lobster fishery has been particularly well managed and, since 1997, it has seen steady increases in the total allowable catch. In 2003, the Minister of Environmental Affairs and Tourism declared a total allowable catch for the commercial harvesting of rock lobster in the area east of Cape Hangklip. The Department continues to manage this fishery in terms of precautionary management principles.

4. The medium-term rights allocation process

In 2001, the Department allocated 234 full commercial west coast rock lobster fishing rights. An additional 511 limited commercial fishing rights were allocated to former subsistence fishers. Of the rights allocated in the full commercial fishery, 66 percent were granted to blacks and black-owned entities. The representation of blacks at senior management level in the full commercial fishery is, however, only 34 percent.

Of the rights allocated in the limited commercial fishery, 91.5 percent were allocated to blacks; predominantly black-owned micro enterprises. This means that approximately 70 percent of the west coast rock lobster fishery is controlled by blacks.

In 2003, the Department allocated a further 230 tons of west coast rock lobster to 274 limited commercial right-holders in the area east of Cape Hangklip. Of the rights allocated, more than 90 percent were allocated to blacks.

In 1992, 39 predominantly white right-holders controlled the west coast rock lobster TAC. In contrast, by the end of 2003, the Department had allocated 1 019 commercial rock lobster fishing rights. Of these, more than 785 were allocated to former subsistence fishers. To accommodate the larger number of right-holders, the average allocation in 2002 was 6.8 tons, compared with an average allocation of 56 tons in 1992. However, the difference between largest and smallest right-holders also decreased substantially over the past 10 years. In 1992, there was a 200-fold difference between the highest (199 tons) and the lowest (one ton) allocations; in 2002, there was a 66-fold difference between the highest (95.6 tons) and the lowest (1.5 tons) allocations.

5. Over-arching sectoral objectives

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

- Increase the transformation profile of this fishery, particularly the representativity of blacks at the level of executive management;
- Encourage investment in vessels (to replace ageing vessels), infrastructure and more secure jobs;
- 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;
- the number of full-time jobs provided (and to further encourage the conversion of part-time employment into permanent jobs);
- the need to maintain the economic stability that currently prevails in the fishery; and
- the fact that the west coast rock lobster resource is well managed in terms of reliable and current data,

the Department will allocate commercial rights for a period of 10 years (01 January 2006 to 31 December 2015). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria (***see paragraph 13 below***).

7. New entrants

Although the west coast rock lobster fishery is optimally exploited and there is no room for additional participants, new entrant applicants will be considered and may be preferred over existing right-holders who have failed to transform at all, or who have failed to implement transformation plans as stipulated in their medium-term right applications. In addition, those right-holders that did not utilise their rights, or did not utilise them effectively, will not be re-allocated a right and may be replaced by new entrants.

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 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*”.

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:** Applicants, including the directors or controlling shareholders, that have been convicted of a serious contravention of the MLRA (punishable by imprisonment without the option of the payment of a fine) will not be allocated a WCRL (offshore) fishing right. 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 WCRL (offshore) fishing right. Other 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, or ownership of, a suitable vessel (*see paragraph 9 below*).
- (e) **Non-utilisation:** Those right-holders that failed to utilise their medium-term commercial west coast rock lobster right between 2002 and 2004 will not be re-allocated a commercial right.
- (f) **Application for rights in the WCRL (nearshore) fishery:** If a member of an applicant's executive management team, or if a controlling shareholder(s) lodges an application for a WCRL (nearshore) fishing right, then the offshore commercial fishing right application will be excluded.

8.2 Balancing criteria

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

(a) Transformation

Currently, 66 percent of right-holders in this fishery are black-owned. Thirty four percent are black-managed. These right-holders collectively control 60 percent of the TAC. Furthermore, small- and medium-sized enterprises make up 90 percent of right-holders. Small- and medium-sized entity applicants are considered to be, *inter alia*, those entities whose annual turnover did not exceed R5 million for medium size operations, and R3 million for small operations.

The Department's objective with the allocation of long-term fishing rights in this fishery is to improve on the present levels of transformation. 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 executive 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 WCRL (offshore) 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 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 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 west coast rock lobster fishery over the medium-term period.

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for west coast rock lobster.

(d) Local economic development

The Department will prefer those applicants, particularly smaller right-holder applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas such as Cape Town. Larger right-holders that have invested in facilities in Cape Town will not be penalised.

The Department will positively score those right-holder applicants that undertake to invest in and land their catches at smaller fishing harbours, particularly, Port Nolloth, Hondeklipbaai and Paternoster.

(e) Jobs

The west coast rock lobster fishery provides some 5 500 jobs for crew and land-based employees. However, the seasonal nature of the fishery means that there are few full-time jobs and employees consequently have very little job security. The WCRL (offshore) fishery is a valuable fishery and the TAC has been steadily increasing since 1997.

The Department will prefer 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.

(f) Reliance on west coast rock lobster

The Department will prefer applicants who rely on west coast rock lobster fishing (including processing and marketing) for 50 percent or more of their gross annual income. Applicants, or their controlling shareholders, who derive an income from sources outside the fishing industry will be penalised.

(g) 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 or have under-reported catches in order to, *inter alia*, avoid the payment of levies.

In the former case, right-holder applicants will be penalised. However, should such 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. In the latter case, applicants will be excluded.

(h) Compliance

Right-holders, including their directors or controlling shareholders, who are currently being investigated for breaches of the MLRA, whether criminal or administrative, will not be allocated a west coast rock lobster fishing right until the conclusion of the investigation.

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

8.3 Quantum Criteria

In the case of existing right-holders, the Department will use as a base the quantum allocated to right-holders during the 2005 season, add proportionately the TAC of existing right-holders that did not apply or were unsuccessful, and then re-distribute the TAC in terms of the following mechanisms:

- **Black Management:** 15 percent of the west coast rock lobster TAC will be re-distributed on the basis of scores attained for black management; and
- 35 percent of the TAC will be re-distributed on the basis of comparative balancing scores attained, including the score for **transformation**.

Successful new entrant applicants will be allocated a quantum equivalent to that allocated to new entrant applicants in the medium-term rights allocation process.

9. Suitable vessels

A suitable vessel in the west coast rock lobster fishery is a vessel that:

- has a SAMSA certified length of maximum length of 30 metres and a minimum length of eight metres;
- has a functioning vessel monitoring system;
- is geared for either trap or hoop net fishing; and
- does not operate in another fishery.

10. Multi-sector involvement

Right-holders in the WCRL (offshore) fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the WCRL (offshore) 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, including the WCRL (nearshore) fishery, and Cluster D fisheries.

11. Application fees and levies

The application fee for the WCRL (offshore) fishery will be set having regard to:

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

12. Management measures

The management measures discussed below reflect a number of the Department's principal postright 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 recognising that fishing and associated land-based activities impact on the broader marine environment. This part of the WCRL (offshore) fishing policy does not attempt to provide a policy statement on EAF. The EAF in the WCRL fisheries will be detailed in the WCRL (Offshore) 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 10-year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery. Right-holders may want to 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 facilitate 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*).

12.3 Vessels and fishing effort

As many right-holders do not own the vessels they use, the Department anticipates that many right-holders will seek to introduce further vessels after the allocation of long-term fishing rights. Current effort levels are optimal and the Department will therefore 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.

12.4 Monopolisation

While the Department will encourage the consolidation of right-holders in this fishery, it 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.

13. 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 performance measuring exercises 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 consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- investment in vessels and gear;
- fishing 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.