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GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

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MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

DRAFT POLICY FOR THE ESTABLISHMENT OF NEW FISHERIES: 2003

The Minister of Environmental Affairs and Tourism has released a draft policy on the establishment of new fisheries commencing in 2004.

Members of the public are hereby invited to submit written comment on this draft policy. The draft policy is available at www.deat.gov.za. Hard copies are available at the –

- Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management, 7th Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore Cape Town; and
- Offices of Marine Inspectors along the coast.

Members of the public must submit written comment by no later than 16h00 on 31 January 2004. Comments should be titled as follows:

New Fisheries Policy 2003
The Deputy Director-General: Marine and Coastal Management

Comments may be –

- Hand delivered to the offices of Marine and Coastal Management at the above address;
- Posted to Private Bag X2, Roggebaai, 8012;
- E-mailed to pbuthele@mcm.wcape.gov.za; or
- Faxed to (021) 425-7324.

Should you have any telephonic enquiries, please do not hesitate to contact the Department at (021) 402-3911. Your enquiries may be directed at Mr Phakamani Buthelezi (Chief Director: Resource Management).

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
Branch: Marine and Coastal Management

DRAFT POLICY ON THE ESTABLISHMENT OF NEW FISHERIES

Contents

1. General

The development and diversification of existing fisheries and the establishment of new fisheries are a government priority in terms of several of its key objectives:

- Job creation
- Human Resource Development – skills enhancement through new economic activities, particularly those associated with small business.
- Social Sector Service Delivery: expanding the commercially exploitable resource base, broadening access and prioritizing the poor and disadvantaged.
- Rural Development Programmes – focusing particularly on previously neglected areas such as the Eastern Cape
- Transformation

The Department, Branch: Marine and Coastal Management ("the Department") is committed to delivery on all of these and it is one of our highest priorities to establish several new fisheries as soon as possible, liaising with other relevant government departments where necessary.

It is, however, necessary to ensure that we address the task in a structured manner, *i.a.* by:

- bringing already on-going fishing activities which have emerged without coherent management or in the absence of formal management altogether under adequate control;
- effectively implementing the Department's policy for development of new fisheries when initiating the establishment of a new fishery;
- application of the Precautionary Principle with respect to the utilization of resources (sustainability is paramount).

2. The process of establishing new fisheries

A new fishery is defined as *a regulated fishery that exploits a resource or part of a resource that has not previously been managed by the state whether as a commercial, exploratory or experimental fishery.*

The above definition could include a previously unexploited resource, an under-exploited resource which has hitherto been a by-catch of another fishery, or a fully exploited or even over-exploited resource which has hitherto not been subject to any management controls.

Essentially, there are three different scenarios with respect to the establishment of a new fishery and these should be clearly defined:

Exploratory fishery
This is the situation when an entrepreneur has approached the Department with an *original* idea to utilize an unexploited or under-exploited resource and an exploratory permit is issued for a *limited period of time* to allow the entrepreneur to test the idea/method, as well as market acceptability of products. Exploratory fishing permits will not be issued to utilize a resource that is fully of over-exploited, or for a species for which a market has already been established.

Exploratory fishing permits will normally be given only in terms of strictly limited time periods and/or catch volumes. The main purpose should be to establish whether a fishery is economically viable.

Possible ecosystem effects should be taken into account.

More specific details on how to deal with the above situation are given below.

Experimental fishery: There are two possible routes by means of which an experimental fishery could be launched viz: by the expansion of an exploratory fishery to an experimental phase or (and this will most often be the case) if a market exists, then an experimental fishery could be established directly. One of the goals of an experimental fishery is to test the economic feasibility. In both cases, the primary objective is to obtain information about the resource in order to determine acceptable catch and effort levels and on that basis develop a Sector Management Plan (SMP)

for the structuring of a subsequent commercial fishery in line with the Government's objectives for fisheries sector development.

The extent or scale of the experimental fishery needs to be determined in terms of number of participants, or tonnage allocated. The general principle should be that the less information available, the more conservative the approach should be. Normally, when information is scarce, only small quantities and/or a small number of participants will be allowed.

Possible ecosystem effects should also be considered.

A specific duration for the experimental fishery will be specified by MCM.

Fully established commercial-scale fishery
This is the situation where the Department has enough information about a specific resource to be able to determine a TAC, TAE or Precautionary Maximum Catch Limit (PMCL) and rights can be allocated for the requisite period.

For each of the three scenarios given above, a *fishery management plan* would be required. This could includes details on some, or all of the following:

- Notification procedures
- Harvest Controls, including deployment of observers and gear or area restrictions
- Direction of fishing effort
- Data Specification, Collection and Reporting
- Data Analysis/Stock Assessment
- The Operational Management Procedure (OMP)
- Time scales for all of the above
- Penalties for non-compliance with permit conditions and/or transgression of regulations
- The commitments of the fishing companies participating in an exploratory or experimental fishery, to be established in terms of a contract or permit conditions and by signature of a Code of Conduct.

The specific requirements would depend on the particular resource.

NOTE: In any of the above three scenarios, MCM will reserve the right to decide on whether to allow a fishery to progress to the next phase or to terminate a fishery at any stage, based on resource or any other considerations.

3. Monitoring and Control

It is imperative that the implementation of any of the three phases of new fisheries be accompanied by stringent control measures, in the case of exploratory and experimental fisheries to ensure that the data collection requirements are met and, in the case of all three, to ensure that the permit conditions are met and compliance with regulations are adhered to.

Observers will be required, in the case of exploratory, experimental and, in some cases, fully-established commercial fisheries, to collect data and monitor fishing activities.

Designated landing points/harbours will be identified where fishery control officers and contracted marine monitors will record catches for quota control purposes.

The funding of observer programmes will be determined on a resource specific basis. In general, funding of the observer programme should be on the User Pays principle. However, in the case of small-scale fisheries, MCM may carry the costs for all or part of the observer programme. This would be a Resource Management responsibility and should be budgeted for by the Chief Directorate: Resource Management.

By-catch management

Resource specific rules regarding the handling of non-target species must be established.

Technology/Infrastructure Considerations

The choice of gear and technology will be approved by MCM. This would depend on: resource availability, catch rates, socio-economics considerations, product marketability, ecosystem considerations, inter- or cross-sectoral conflict considerations, overall economic feasibility and control.

Observance of regulations

Specific regulations set by MCM (by means of permit conditions, if necessary) with regard to fish size limits, by-catch limits, designated areas, designated landing points or harbours, fishing seasons, closed areas, catch limits (by area if appropriate), and effort limitation must be observed. This should be reported on by the on-board observers and Vessel Monitoring Systems (VMS), if required. If required by MCM, Extension officers and/or Honorary Marine Conservation Officers (Ref MLRA section 9 (2)) can be deployed to assist with these tasks.

4. Implementation

4.1 ***Infrastructure at MCM***: Systems will be put in place at MCM, with designated officials (resource managers) taking responsibility for the research and management issues related to the implementation of new fisheries. Procedures to deal with applications for exploratory and experimental fisheries will be as follows:

A *project manager* will be appointed to deal with the implementation of a new fishery.

If the fishery falls within the remit of an existing scientific working group, scientific issues can be dealt with there. If not, an ad hoc Working Group or Task Team could be established.

Recommendations emanating from the scientific working group or ad hoc working group should be submitted to the Director: R&D, Director: Compliance, Chief Director: Research, Antarctica and Islands and Chief Director: Resource Management for submission to the Minister or his delegate for approval.

4.2 ***Client group***: MCM will, as far as possible, implement a system to ensure that the client groups enjoy the profits derived from such ventures. Participants will be encouraged to be involved in all facets of the venture (including the marketing of the fish) in order to enhance their profit margins.

4.3 ***Application processes and permit issue***: Calls for applications will be published in the Government Gazette where information will be given on the application process for each new fishery, including specific criteria for allocation of exploratory and experimental permits. The criteria for implementing a new, full-scale fishery would be in line with those for any existing commercial fishery.

4.3.1 ***Exploratory Fishing Permits***: In the event of a person or entity approaching MCM with an innovative idea or method of fishing, or with the request to explore harvesting a new or under-utilised resource, a specific procedure should be followed.

MCM's management (A committee chaired by the CD: Resource Management) should take responsibility for evaluation of such cases. In terms of the allocation of an exploratory permit, whether the allocation process should be an open one (inviting other interested persons) or a closed one (allocating a single permit to the interested party) should be determined on a case-by-case basis. In all cases, consideration will be given as to whether the activity will contribute to the government's policy objectives. Requests for access to exploratory fishing proposals will be dealt with in accordance with the provisions of the Promotion of Access to Information Act 2 of 2000.

A time period (e.g. a maximum of 6 or 12 months) will need to be stipulated for participant/s to embark upon fishing activities.

MCM is committed to a general policy of rewarding entrepreneurship. This could imply that some protection might be required for participants who provide innovative ideas, techniques, gear, etc. The recommendation is that if a person or entity has proposed a successful venture/design with beneficial results in terms of government's key focus areas, and if there is no specific reason why the entity should not be allowed to fish, then the entity should be granted a right to embark on an exploratory fishery. Such approval should not be interpreted as an automatic right to entry to experimental or full commercial phases of the fishery. However, if MCM follows the route of implementing an experimental fishery at a later stage, the entity's contribution should be taken into account in selection of participants for the experimental fishery. Similar considerations apply if a commercial fishery is the final outcome.

4.3.2 ***Experimental Permits***

In the case of experimental permits, applicants will have to meet certain minimum requirements, such as gear specifications, access to a vessel, etc. (These would be resource specific). Since the main objective is to collect information about the resource, applicants would have to demonstrate that they have the capability and capacity to collect the data required and/or accommodate observers who could do so. Applicants will be required to present a business plan to indicate capability. These requirements will be published in a Government Gazette

The *client group* for each specific fishery will be indicated by MCM. Whenever applicable and relevant, it should be stated clearly by MCM that the client groups are small operators and that the main objective in establishing a new fishery is job creation. Exploratory and experimental phases will not necessarily, however, lead to job creation, but the subsequent commercial fishery must do so. The decision on whether or not to also allow existing rights holders to participate in an experimental fishery should be taken on a case-by-case basis, bearing in mind that when we are dealing with experimental fisheries, we need good, reliable information. The policy guidelines that will inform the subsequent structuring of a potential new fishery resulting from the experiment must not confuse the fundamental prerequisites associated with the experiment itself. Therefore, it might be advantageous to involve existing rights holders who have existing and available infrastructure and may have the know-how, experience or skills. For example, it is a valid concern in its own right to exercise great caution in terms of introducing additional, new fishing capacity when undertaking any experimental fishing. Experimental fishing should, as far as realistically feasible, aim to use fishing vessels

already deployed in South African waters. On the other hand, it would be policy to encourage new entrants, and/or to enhance the commercial viability of recently admitted new operators. The policy is aimed at striking a balance between the necessity of ensuring the professional integrity of the experiment, and using the experiment as a vehicle for introducing new entrants to the sector. More experienced applicants could be requested to submit proposals indicating how they intend to transfer skills to non-experienced persons (possibly amongst "non-experienced" applicants).

Note: Participants in the experimental fishery will not be entitled to rights. They are simply issued with an experimental permit. If rights are ultimately allocated in a full commercial fishery, applicants will be evaluated on a case-by-case basis, where performance in the experimental phase will be taken into account in the scoring system.

4.3.3 ***Full Commercial Fishery Right***

All the necessary information from the experimental fishery should be collected and analyzed and subjected to stock assessment. If necessary, an Operational Management Procedure (OMP) should be introduced.

As with the above two scenarios, a Management Plan should be formulated, with recommendations on the OMP, sustainable catch levels, harvesting methods, gear, fishing season, fishing areas, size limits, by-catch and other regulations specific to the resource.

4.3.4 General issues

It would be important to be clear on the requirements of vessels to be used in any of the three phases described, as well as on the application information required from prospective participants, in terms of business plans, transformation, and on the scoring systems to be applied. Application forms and GG notices must conform to legal requirements.
Possible environmental impacts of the activity as well as possible user conflict must be assessed.

5. Guidelines for research

Researchers and managers involved in the development of new fisheries need to access, integrate and disseminate a range of information sources and types. These can be biological, social and economic, but legal and administrative issues should also be taken into account in advising on the way forward.

5.1 Exploratory Fishery

5.1.1 *Data Collection*: The main purpose of an exploratory venture should be to establish whether the idea is viable, and whether an experimental phase should be initiated. Data collection should therefore focus on this need.

5.1.1.1 *Fishery and resource information*: In an exploratory fishery, the emphasis is on the effects of the gear, catch rates, by-catch and the economic feasibility of the venture. However, the collection of resource information can commence, and target species information on distribution and abundance by depth, population size and structure and sex ratios, spawning season, maturation, growth or mortality and predator/prey interactions is useful in assessing possible biological effects. However, it is not necessary to collect comprehensive biological data: this can be done in the experimental phase. Quality of data is important, and a MCM-approved observer may play a role in its collection and quality assurance.

5.1.1.2 *Economics information*: This should be the main focus in this phase. As detailed below for experimental fisheries, market-related information is required, as well as costs incurred. Catchability or catch rates would also be required for input into economic feasibility analyses.

5.2 Experimental Fishery

5.2.1 Data Collection

5.2.1.1 *Fishery and resource information*: Information on the gear performance and resource must be collected to provide inputs into stock size, distribution and abundance by depth, population size, age-structure and sex ratios, spawning season, maturation, growth or mortality, diet as well as information on by-catch. Specific information required may vary from resource to resource. High quality and reliable catch and effort data will therefore need to be provided by participants, as well as samples for biological research.

5.2.1.2 *Social information*: The sector or client group that MCM identifies to benefit from the experiment needs to be clearly defined. Inter-sectoral conflict also needs to be considered, e.g. the impact of an experimental fishery on existing sectors such as subsistence fishers or on other existing fisheries.

5.2.1.3 *Economics information*: Market-related information (e.g. existing markets, how / best way to market, prices offered etc.) is required, as well as costs incurred (capital outlay in terms of gear, vessels, transport, handling/processing, marketing, administration etc). Catchability or catch rates would also be required for input into economic feasibility analyses. All this information should be collated into a management plan.

The role or the extent of responsibility on the part of MCM in collecting and disseminating market-related information would depend on the client group. The client group therefore needs to be clearly defined. In

the case of potential small-scale commercial fisheries (targeting Historically Disadvantaged Individuals or new entrants) MCM would have to take on the responsibility for acquiring this information and presenting such information to the participants. In some cases, relevant information could be provided by MCM to guide potential investors.

(Note that there is the need for an Economics Unit within MCM and for access to relevant sources of information, e.g. FAO databases, such as InfoFish / Info-Pêche, etc. within MCM).

5.2.2 ***Data Analysis***: The collation and analysis of information/data will be the responsibility of MCM. Trends in the experimental fishery will need to be assessed as well as impacts of the fishery on the resource.

5.2.3 ***Reporting & recommendations***: The dissemination of results and recommendations (feedback and progress reports) to the relevant working groups and to participants will be the responsibility of MCM. Finally, recommendations based on the results of the experiment will form the basis of a decision to either implement the next phase, i.e. a commercial fishery or not. If a commercial fishery is proposed, results of the experimental fishery should input into a management plan for the specific fishery. Such recommendations should include, for example: where to fish; when to fish; how to fish; how much to catch, what sizes to catch, and by-catch levels and responsibilities.

5.2.4 ***Prioritizing research on potential experimental fisheries***: All new or under-utilized resources need to be assessed and prioritized, in order to identify research focus (cf. given the shortage of staff etc. researchers need to focus attention on key/identified resources)

5.3 Full Commercial Fishery

Once the fishery is newly established, all the management procedures with respect to the resource, the users, monitoring and control and research will be applied, as for other commercial fisheries. However, special attention will be given to any new fishery to ensure that a precautionary approach is followed.

Note: All data/information collected in the course of an experimental phase of a new fishery will have to be publicly available.

Appendix
List of potential new fisheries

Small-scale fisheries

1. Octopus
2. Abalone Eastern Cape
3. East Coast Rock Lobster
4. Winkles/periwinkles
5. Indian Squid KZN
6. Ornamental Fish
7. Sea Urchins
8. Limpets (West Coast?)
9. Mud/Sand Prawns
10. White Mussels
11. Mediterranean Mussels
12. Anchovy for human consumption
13. Alikreukel
14. Abalone/alikreukel shells

Industrial fisheries

1. Red-eye (round herring)
2. Sand Soldier KZN
3. Panga trap fishery
4. Gurnards
5. Meso-pelagics
6. Krill
7. Non/Subutilized By-catch spp.