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PART 1 OF 4



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GENERAL NOTICE

Environmental Affairs and Tourism, Department of

General Notice

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GENERAL NOTICE

NOTICE 931 OF 2005

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

INVITATION TO APPLY FOR RIGHTS TO UNDERTAKE COMMERCIAL FISHING OF HAKE DEEP SEA TRAWL, HAKE INSHORE TRAWL, HORSE MACKEREL, SMALL PELAGICS (SARDINES AND ANCHOVY), SOUTH COAST ROCK LOBSTER, PATAGONIAN TOOTHFISH AND KWAZULU-NATAL PRAWN TRAWL IN TERMS OF SECTION 18 OF THE MARINE LIVING RESOURCES ACT 18 OF 1998

The Minister of Environmental Affairs and Tourism ("the Minister") hereby invites applications for rights to undertake commercial fishing in the following sectors:

1. Hake Deep Sea Trawl
2. Hake Inshore Trawl
3. Horse Mackerel
4. Small Pelagics (Sardines and Anchovy)
5. South Coast Rock Lobster
6. Patagonian Toothfish
7. KwaZulu-Natal Prawn Trawl.

The fishing rights will be allocated in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998). The following schedules are also published herewith:

1. Schedule A: the General Fisheries Policy.
2. Schedule B: the Fishery Specific Policies for Hake Deep Sea Trawl, Hake Inshore Trawl, Horse Mackerel, Small Pelagics (Sardines and Anchovy), South Coast Rock Lobster, Patagonian Toothfish and KwaZulu-Natal Prawn Trawl.
3. Schedule C: the final specimen Medium Term Right Holder Application Forms for each of the fisheries listed above with the exception of Patagonian Toothfish, for which an Experimental Permit Holder Application Form (together with Explanatory Notes) is published.
4. Schedule D: the Explanatory notes to the Medium Term Right Holder Application Forms
5. Schedule E: the final specimen New Entrant Application Forms
6. Schedule F: the Explanatory notes to the New Entrant Application Forms
7. Schedule G the final schedule of fees determined by the Minister in consultation with the Minister of Finance in terms of section 25(2) and section 25(1) of the Marine Living Resources Act. The schedule of fees published in Schedule E hereby repeal the provisions of clause 1(a) (i), (iv), (v), (vi), (viii) and (ix) of GN 26750 of 31 August 2004.

The electronic registration and application form distribution process will commence on Friday 17 June 2005 at 08h30 and closes on Friday 1 July 2005 at 17h00. Applicants may register at www.mcm-deat.gov.za and may obtain further information regarding the process at this website. Applications must be submitted on 14 July 2005 (between 08h00 – 19h00) or 15 July 2005 (between 08h00 – 17h00) at the Good Hope Centre in Cape Town.

SCHEDULE A

GENERAL FISHERIES POLICY



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

**GENERAL POLICY ON THE ALLOCATION AND MANAGEMENT OF LONG
TERM COMMERCIAL FISHING RIGHTS: 2005**

THIS POLICY MUST BE READ WITH THE APPLICABLE FISHERY SPECIFIC POLICY

(available at www.mcm-deat.gov.za)

This document is also available in Afrikaans, isiXhosa and isiZulu
Hierdie document is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar
Lencwadi iyafumeneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu
Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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PART A: INTRODUCTION AND BACKGROUND

1. Introduction

This **General Policy on the Allocation and Management of Long Term Commercial Fishing Rights** is issued by the Minister of Environmental Affairs and Tourism and will be referred to as the "**General policy**". The General policy must be read in conjunction with policies that will be referred to as the "**Fishery specific policies**" or "**Sector specific policies**" that have been adopted for each commercial and experimental fishing sector. In the General policy a number of issues are dealt with that are relevant to all the fishing sectors listed in paragraph 2. These cross-cutting policy considerations also inform the contents of the Fishery specific policies, which set out the Minister's specific intentions with regard to the allocation of rights in each fishery. Potential applicants and interested parties should read this General policy in conjunction with the applicable Fishery specific policy.

2. Application

The General policy applies to the allocation of rights in the 19 commercial fishing sectors: Hake Deep Sea Trawl, Hake Inshore Trawl, Horse Mackerel, Small Pelagics, Patagonian Toothfish, South Coast Rock Lobster, KwaZulu-Natal Prawn Trawl, Hake Long Line, West Coast Rock Lobster (Off Shore), Squid, Tuna Handline, Seaweed, Shark Demersal, Handline Hake, West Coast Rock Lobster (Near Shore), Oysters, White Mussels, Netfishing (Trek- and Gillnets and Beach Seine) and Kwazulu-Natal Beach Seine.

The General policy does not apply to –

- ❑ Subsistence fishing. A separate policy will be adopted dealing specifically with subsistence fishing, including the subsistence fishing of East Coast Rock Lobster and Abalone in the Eastern Cape.
- ❑ Recreational fishing. A separate policy will be adopted dealing specifically with recreational fishing.
- ❑ Foreign fishing.
- ❑ Fish processing establishments. A separate policy will be adopted dealing specifically with fish processing establishments.
- ❑ Mariculture. A separate policy will be adopted dealing specifically with the regulation and management of mariculture in South Africa.
- ❑ Non-consumptive marine activities, including boat based whale watching, shark cage diving, sport diving and SCUBA diving. Separate policies will be adopted dealing specifically with these non-consumptive marine activities.
- ❑ Traditional Linefish. A separate policy will be adopted dealing specifically with Traditional Linefish.

Although this policy does apply to Hake Handline, West Coast Rock Lobster (near shore), Netfish (Trek- and Gillnets, Beach Seine), Kwazulu-Natal Beach Seine, Oysters and White Mussel sectors, applicants in those sectors are advised to focus on the Fishery specific policy for the considerations that will be applied to the allocation of rights. It will be essential for applicants in these sectors to study the fishery specific policies before they apply.

3. Purpose

The General policy, together with the Fishery specific policies, is intended to serve as a guide for the long term rights allocation process. It describes the core functions of the Department which support the rights allocation process. The Minister also considers it necessary, for the benefit of applicants, to set out some of the Department's management objectives for the immediate future. These may be reviewed from time to time by the Department if considered desirable.

4. What informs this policy?

The General and Fishery specific policies are informed by South Africa's international legal obligations, non-binding undertakings at international and regional level, and the legislative framework for the allocation of fishing rights.

4.1 International obligations pertaining to sustainable resource use

During the **World Summit on Sustainable Development** ("WSSD"), held in Johannesburg during September 2002, countries undertook to maintain or restore fish stocks to levels that can produce the maximum sustainable yield. The goal is to be achieved on an urgent basis for depleted stocks, and if possible, by not later than 2015. Countries also undertook to develop and implement national plans of action. The WSSD identified the need to maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, within and beyond national jurisdictions. The aim is to protect the ecosystem, using an approach that eliminates destructive fishing practices, establishes marine protected areas, imposes and supervises time and area closures for the protection of nursery grounds during spawning periods. In terms of the *Reykjavik Declaration* of 2001 and Johannesburg Plan of Implementation emanating from the WSSD, South Africa has committed itself to introducing such an Ecosystem Approach to Fisheries ("EAF") management by 2010.

The ***Food and Agriculture Organisation's 1995 Code on Responsible Fisheries*** is a voluntary instrument that recognises that fisheries, including aquaculture, provide a vital source of food, employment, recreation, trade and economic wellbeing for people throughout the world and should therefore be conducted in a responsible manner. The Code sets out principles and international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity. The Code recognises the nutritional, economic, social, environmental and cultural importance of fisheries. The Code has led to four International Plans of Action ("*IPOAs*"). The IPOAs are the IPOA on Capacity; the IPOA to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing ("*IUU Fishing*"); the IPOA for the Reduction of Shark By-catches; and the IPOA for the Reduction of the Incidental By-catch of Seabirds. As a state party, South Africa has undertaken and is committed to apply the Code, the four IPOAs and, if necessary, to give effect to them by way of National Plans of Action. In an endeavour to implement the IPOA to Prevent, Deter and Eliminate IUU Fishing, the monitoring and control of fishing vessels will be strengthened.

The United Nations Convention on the Law of the Sea, 1982 ("UNCLOS") seeks to establish a legal order for the world's seas and oceans in order to facilitate communication in international waters. It also promotes the peaceful use of the world's seas and oceans, the equitable and efficient utilisation of marine resources, the conservation of marine living resources and the study, protection and preservation of the marine environment.

The United Nations Fish Stocks Agreement, 1995 complements the Convention by specifying how straddling fish stocks (such as hake) and highly migratory fish stocks (such as tunas) should be exploited and managed.

South Africa is further a party to a number of ***Regional Fishery Management Organisations ("RFMO's")*** responsible for the management and conservation of shared fish stocks, including tuna, swordfish and Patagonian toothfish. These include the International Commission for the Conservation of Atlantic Tunas ("*ICCAT*"), the Commission for the Conservation of Southern Bluefin Tunas ("*CCSBT*"), the Indian Ocean Tuna Commission ("*IOTC*") and the Convention for the Conservation of Antarctic Marine Living Resources ("*CCAMLR*"), the South East Atlantic Fisheries Organisation ("*SEAFO*") and the Southwest Indian Ocean Fisheries Commission ("*SWIOFC*").

As a member of the Southern African Development Community ("*SADC*"), and in particular as a signatory to the ***SADC Protocol on Fisheries***, South Africa is obligated to ensure the sustainable use of shared fish stocks with its SADC neighbours. These shared stocks include hake, pelagics, prawns, linefish and horse mackerel.

4.2 The legislative framework for the allocation of commercial fishing rights

The transformation of the fishing industry is a constitutional and legislative imperative. The primary vehicle for the promotion of the transformation of the South African fishing industry is the Marine Living Resources Act 18 of 1998 (the "MLRA"). Another important purpose of the MLRA is to provide for the orderly exploitation of marine living resources, and to provide for the exercise of control over marine living resources in a fair and equitable manner to the benefit of all the citizens of South Africa. In terms of section 2 of the MLRA, the Minister and any organ of state shall have regard to a number of objectives and principles when exercising any power under the Act. These are:

- (a) *The need to achieve optimum utilisation and ecologically sustainable development of marine living resources;*
- (b) *the need to conserve marine living resources for both present and future generations;*
- (c) *the need to apply precautionary approaches in respect of the management and development of marine living resources;*
- (d) *the need to utilise marine living resources to achieve economic growth, human resource development, capacity building within fisheries and mariculture branches, employment creation and a sound ecological balance consistent with the development objectives of the national government;*
- (e) *the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;*
- (f) *the need to preserve marine biodiversity;*
- (g) *the need to minimise marine pollution;*
- (h) *the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act;*
- (i) *any relevant obligation of the national government or the Republic in terms of any international agreement or applicable rule of international law; and*
- (j) *the need to restructure the fishing industry to address historical imbalances and to achieve equity within all branches of the fishing industry.*

In order to commercially exploit marine resources, a person or entity needs to apply and be granted a right under the MLRA. Section 18 provides as follows:

- (1) *No person shall undertake commercial fishing or subsistence fishing, engage in mariculture or operate a fish processing establishment unless a right to undertake or engage in such an activity or to operate such an establishment has been granted to such a person by the Minister.*

The allocation of rights has been the primary mechanism to further transformation and give effect to the other principles and objectives set out in section 2 of the MLRA. In order to exercise a right granted under section 18, a person needs to be issued with a permit under section 13 of the MLRA, which provides as follows:

(1) No person shall exercise any right granted in terms of section 18 or perform any other activity in terms of this Act unless a permit has been issued by the Minister to such person to exercise that right or perform that activity.

Apart the MLRA, the General Regulations, promulgated in GN 1111 in Government Gazette 19205 of 2 September 1998 (as amended) are relevant. These regulations contain certain procedures relating to appeals against decisions made under sections 13 and 18 of the Act, and the regulation of closed seasons and closed areas, the use of gear and species restrictions. The Regulations further deal with the landing, transportation, delivery, receipt, processing and marketing of fish and fish products, compliance control, the leaving of objects in the sea, fishing harbour regulations and offences and penalties.

The MLRA and its Regulations were interpreted in a number of court decisions concerning the medium term rights allocation process, some setting important legal precedents. These decisions were taken into consideration with the design of the long term allocation process.

The National Environmental Management Act 107 of 1998 ("NEMA") provides the framework for the adoption of environmental management and policy. To the extent that an action of an organ of state significantly affects the environment the principles set out in section 2 of NEMA apply.

5. Departmental Functions and Delegations

5.1 Delegation of Powers

The MLRA confers powers on the Minister of Environmental Affairs and Tourism ("*the Minister*") and the Director-General. In the past, the Minister and the Director-General have delegated many of their powers to officials in the Department, including the powers under section 13 (granting of permits), section 18 (granting of commercial fishing rights), section 28 (cancelling, revoking or suspending fishing rights / permits), section 81 (granting and cancelling of exemptions) and section 83 (permitting experiments and scientific investigations).

A complete set of all current delegations is available from the Department or may be viewed at www.mcm-deat.gov.za. The Minister intends to delegate his power to grant fishing rights and permits in the 19

commercial fishing sectors to officials in the Department. This General Policy and the Fishery Specific Policies are adopted by the Minister in order to guide the delegated authorities when allocating fishing rights and permits.

5.2 Core departmental functions supporting rights allocation

(a) Fisheries Research

The Chief Directorate: Research, Antarctica and Islands is responsible for managing the performance of this function. The principle purpose of scientific research is to ensure the ecologically sustainable utilisation of fish stocks and the conservation of marine ecosystems, including species which are not targeted for exploitation such as seals and seabirds.

The Department subscribes to Principle 15 of the Rio Declaration of the UN Conference on Environment and Development (Rio de Janeiro, 1992), which states that *"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall be not used as a reason for postponing cost-effective measures to prevent environmental degradation."*

The Department supports a precautionary approach to all fisheries. Because uncertainty affects all elements of a fishery system, precaution is required at all levels of the system.

Scientific research is aimed at understanding the dynamics of fish stocks and informs the Total Allowable Catch ("TAC") or the Total Applied Effort ("TAE") determined in terms of section 14 of the MLRA. The scientific working groups are responsible for interpreting the stock analyses carried out on the different fish stocks and this interpretation ultimately informs the determination of the TAC/TAE. Scientific research further informs the designation of marine protected areas, the designation of fisheries management areas, the determination of closed areas, closed seasons, prohibited fishing times, minimum species size, vessel and gear restrictions and fishing methods, including by-catch prevention methods. Scientific research is also conducted in order to develop new fisheries, in line with the Department's *New Fisheries Policy*.

Scientific working groups currently function in respect of each fishery sector. Each working group is made up of departmental scientists as well as external experts from other marine science institutions, such as institutions of higher learning. Most sectors are scientifically managed in terms of an Operational Management Procedure ("OMP"). Others are managed by means of annual assessments.

(b) Fisheries Management

The Chief Directorate: Fisheries and Coastal Management is primarily responsible for the performance of two functions. Firstly, to facilitate and regulate the sustainable and equitable development as well as the utilisation of marine living resources through the administration of fishing rights, permits, exemptions and licenses. Secondly, its function is to optimise the sustainable use of South Africa's coastal resources, by controlling human impacts on the environment (other than commercial fishing), such as coastal development, subsistence fishing, recreational fishing, marine pollution and marine eco-tourism. The Chief Directorate is supported by specialists in fisheries economics, fisheries management, oil and marine pollution management and coastal zone management.

(c) Fisheries and Coastal Compliance

The performance of this function is managed by the Chief Directorate: Fisheries and Coastal Compliance. In order to ensure compliance with fisheries laws, the Chief Directorate uses a number of measures aimed at encouraging and enforcing compliance. Those measures include:

- ❑ State of the art inshore and offshore environmental patrol vessels;
- ❑ Specialised environmental courts;
- ❑ Observer programmes;
- ❑ Marine protected areas;
- ❑ Vessel monitoring systems;
- ❑ Public education programmes;
- ❑ Co-management of fish stocks;
- ❑ Employment of fishery control officers responsible for ensuring that all fishing takes place in a regulated and lawful manner and that all landings are properly recorded;
- ❑ Honourary fishery control officers; and
- ❑ Strategic compliance partnerships with non-governmental organisations, local governments, conservation bodies and other applicable organs of state.

(d) Access to information

The Department's designated information officers for purposes of the Promotion of Access to Information Act, 2 of 2000 ("PAIA") are the Chief Director: Research, Antarctica and Islands, the Chief Director: Fisheries and Coastal Management and the Chief Director: Fisheries and Coastal Compliance.

A large body of information regarding previous rights allocations, such as policies, records of decisions, general published reasons, and other records such as compliance databases, TAC's and TAE's are available from the Department. Some records are also available at fishery control offices or at the Department's website (www.mcm-deat.gov.za). More information on how to access these records may be obtained in one of the following ways:

- Contact the Department's Client Care Line on 0861 123 626; or
- Visit the Department's Customer Services Centre at the Foretrust Building, 2nd Floor, Martin Hammerschlag Way, Foreshore, Cape Town.

As in the past, once the assessment of the applications is completed and the decisions are announced, most records held by the Department will be disclosed voluntarily and will be automatically available, as provided for in section 15 of PAIA. In other words, access to information forms do not have to be completed. Records may be inspected and copies will be furnished on informal request at the prescribed fee for reproduction. In general, the Department will only require access to information forms to be completed, and will only assess requests in terms of the provisions of PAIA, when access to the records created by third parties (such as completed application forms and their annexures) are sought. The approach to access to information is dealt with in greater detail below.

PART B: ALLOCATION METHODOLOGY AND PROCESS

6. The Allocation of Fishing Rights

6.1 The legal nature of the Fishing Right

Before the MLRA came into force in 1998, the Department granted fishing "*quotas*" under the Sea Fisheries Act, 12 of 1988. Section 18 of the MLRA now provides for the allocation of fishing "*rights*". The legal nature of the "*right*" allocated under the MLRA is similar to the "*quota*" allocated under the Sea Fisheries. The "*rights*" allocated under the MLRA are not property rights and should be understood as statutory permission to harvest a marine resource for a specified period of time. Accordingly, cancellation or revocation does not constitute the expropriation of a property right within the meaning of section 25 of the Constitution or the Expropriation Act 63 of 1975. This is clear from section 18(6) of the MLRA, which provides that a fishing right is valid for the period determined by the Minister (or his delegate) whereafter it automatically reverts back to the State and may be re-allocated (to the previous right holder or another entity) in terms of the applicable provisions of the MLRA.

A fishing right is granted to a specific person or entity and, in terms of section 21 of the MLRA, the right may not be transferred without the approval of the Minister or his delegate. Upon the death, sequestration, or liquidation of the right holder, the right vests respectively in the executor, trustee or liquidator and the right may continue to be exploited for the period of time permitted by the applicable legal provisions. However, any transfer of the fishing right to a third party requires approval.

6.2 Core Allocation and Management Considerations

This General policy and the Fishery specific policies are based on five core principles that guide the allocation and the management of commercial fishing rights. The five principles complement and give effect to the objectives listed in Section 2 of the MLRA. They are:

- (a) **Transformation:** Transformation and the need to achieve equality within all branches of the fishing industry.

- (b) **Biological considerations:** The impact on the target species must be considered. This is primarily done through the setting of a Total Allowable Catch ("TAC") or a Total Allowable Effort ("TAE"), or both.
- (c) **Ecological considerations:** The impact on the marine ecosystem in which the target species occurs must be considered.
- (d) **Industry and socio-economic and commercial considerations:** In so far as is practical and relevant, the socio-economic impact of allocations on right holders, workers and consumers are considered, in particular those individuals and communities dependent on the resource. Industry and commercial considerations include the nature and value of investments in fixed assets, marketing and processing and fishing capacity.
- (e) **Performance or potential to perform:** In so far as is practical and relevant, financial and fishing performance, value adding, enterprise development and job creation, as well as compliance with the MLRA, the Regulations, permit conditions and other legal requirements, are considered.

6.3 The Allocation Process

(a) *Public participation in policy formulation*

The Minister held 6 Imbizos in coastal communities during the latter half of 2004. These meetings were the informal start to a process of public consultation regarding the allocation of long term fishing rights.

The formal process of public consultation entailed a notice-and-comment process in respect of both the General policy and the Fishery specific policies. A full report concerning the public participation process and the adoption of the policies will be available at www.mcm-deat.gov.za. In brief, in the beginning of March 2005, the Department published a draft version of this General policy and a draft Fishery specific policy for each sector. Interested and affected parties were invited to comment on the policies. However, stakeholders in the various fisheries come from very different backgrounds and accordingly it was not appropriate to engage all of them in the same manner. Apart from the general notice-and-comment procedure, and in order to assist participants in the traditional sectors to comment, a series of public meetings were held where the proposed policies were explained, questions were answered and views from the audience were minuted. Interested and affected parties will also be given the opportunity to comment on proposed application forms.

<u>Cluster A</u>		<u>Cluster B</u>	
(b)	☐ Hake Deep Sea Trawl	ny Cluster	☐ Hake Long Line
	☐ Hake Inshore Trawl		☐ West Coast Rock Lobster (off shore)
For	☐ Horse Mackerel	ation process, the 19	☐ Squid
clus	☐ Small Pelagics	s for fishing rights. T	☐ Seaweed
adm	☐ Patagonian Toothfish	extent, substantive.	☐ Tuna Pole
be a	☐ South Coast Rock Lobster	a cluster. The clusters	☐ Demersal Shark
	☐ KwaZulu-Natal Prawn Trawl		
<u>Cluster C</u>		<u>Cluster D</u>	
	☐ Handline Hake		☐ Net Fish (trek- and gillnets; beach seine)
	☐ West Coast Rock Lobster (near shore)		☐ KZN Beach Seine
			☐ Oysters
			☐ White Mussels

(c) Communication

During the application period, officials of the Department, the delegated authority and the Minister, will not communicate with individual applicants regarding their applications, other than in the manner described in this General Policy. Similarly, applicants or their representatives may not communicate with the Minister, the delegated authority or officials of the Department regarding their applications other than in the manner described in this General policy. No reliance may be placed on any information given or obtained in any other manner. Attempts to influence a decision of the delegated or appellant authority on the allocation or a right or quantum or effort in any other manner will constitute an independent ground for refusing an application or an appeal.

Clusters A and B

Unless otherwise provided in this General policy, communication between the Minister, the delegated authority and officials of the Department Communication on the one hand, and applicants on the other, may only take place through three mechanisms in the **Clusters A and B** sectors:

- ☐ **Electronic Media:** Policies and other materials will be published on the website, www.mcm-deat.gov.za. Electronic-mail distribution lists will be established in order to communicate directly with applicants. During the application period, queries and questions of clarification will be answered by way of e-mail. There will be no communication on a private individual basis. All queries and questions received, and responses thereto, will be compiled and then distributed simultaneously to all registered applicants. The information will also be available on the website.

- ❑ Government Gazette: All policies, invitations to apply and general notices will be published in the Government Gazette.
- ❑ Recognised industrial bodies and interest groups: Policies and other materials will be circulated through recognised industrial bodies and interest groups.

Clusters C and D

Unless otherwise provided in this General policy, communication between the Minister, the delegated authority and officials of the Department Communication on the one hand, and applicants on the other, may only take place through six mechanisms in the **Clusters C and D** sectors:

- ❑ Electronic Media: Policies and other materials will be published on the website, www.mcm-deat.gov.za.
- ❑ Government Gazette: All policies, invitations to apply and general notices will be published in the Government Gazette.
- ❑ Recognised industrial bodies and interest groups: Policies and other materials will be circulated through recognised industrial bodies and interest groups.
- ❑ Call centre: The Department has established a call centre with assistants to answer rights allocations queries.
- ❑ Customer Services Centre: The Department has established a customer services centre in Cape Town.
- ❑ Departmental officials will render assistance to applicants at the distribution and receipting points and will hold meetings at several advertised venues along the coastline where the application process will be explained.

(d) Language

In **Cluster A**, the policies and explanatory notes to the application forms will be available in English and Afrikaans.

In **Clusters B, C and D**, the policies and explanatory notes to the application forms will be available in English, Afrikaans, isiXhosa and isiZulu.

In the case of conflict, the English text of a policy or explanatory note, will prevail.

(e) Invitation to apply for rights

Invitations to apply for commercial fishing rights will be published in the Government Gazette. The Department will also ensure that notices are placed on the Department's website and in regional newspapers.

Invitations gazetted in the Government Gazette will comprise the following parts:

- ❑ A short invitation to apply for the applicable commercial fishing right within a specified period.
- ❑ The fishery specific policy.
- ❑ A specimen applicable application form with a set of instructions, explanatory notes, and the notes to the schedules of documents to be submitted.

The invitation will not include this General policy as well. Applicants will however be provided with copies of the General policy on request. Invitations will be staggered on a cluster basis.

(f) Application Forms

Each fishery will have a separate application form designed to obtain the information considered relevant to effectively evaluate applications for the commercial fishing right in question. Application forms will be designed having regard to the fishery cluster and fishery in question.

Proposed application forms will be published for comment on website www.mcm-deat.gov.za, as part of the public participation process.

(g) Distribution of application forms and payment of fees

Cluster A

In **Cluster A**, applicants will be required to enter the Department's website and to submit a brief set of biographical details, such as name, company registration number, contact details and the like. On completion, the applicant will be informed how to make payment of the application fees.

Applicants will be required to pay the application fee prior to the issuance of the application form. Application fees must be paid directly into designated bank account of the Rights Verification Unit. On receipt of proof of payment, the applicant will be permitted to collect an application form in compact disc ("CD") format from the Right Verification Unit's head office, together with the applicable software to utilize the form.

Cluster B

Hard copy application forms will be distributed at a stipulated venue in Cape Town. Applicants will be required to deposit the application fee into the Rights Verification Unit's designated bank account, and to furnish proof of payment (an original deposit slip or an electronic payment confirmation) at the distribution point before collecting the form. Applicants will be required to submit a brief set of biographical details at the distribution point, such as the name, company registration number, contact details and the like. On completion, and on proof of deposit of application fee, applicants will be provided with a hard copy of a numbered application form.

Clusters C and D

In **Clusters C and D**, application forms will be distributed at various advertised regional venues along the coastline. Applicants will be required to deposit the application fee into the Rights Verification Unit's designated bank account, and to furnish proof of payment (an original deposit slip or an electronic payment confirmation) at the distribution point. Applicants will be required to submit a brief set of biographical details to the staff members at the distribution point, such as name, identification number, close corporation number (if applicable), contact details and the like. On completion, and on proof of deposit of the application fee, applicants will be provided with an application form.

(h) Application fees

The Minister, in consultation with the Minister of Finance, is responsible for setting application fees. The policy regarding application fees will be settled after a separate public consultation process.

(i) Verification by Auditors

Applicants in the **Cluster A** fisheries will be required to engage independent auditors to verify the information provided in certain components of their own application forms. The relevant professional body will determine procedures for the verification process. This does not apply to **Clusters B, C and D**.

(j) Receipting

In **Cluster A**, applicants will be required to submit the completed CD and printed version of the application, annexures and copies by hand at a stipulated venue and during a specified period in Cape Town.

In **Cluster B**, applicants will be required to submit the completed application forms, annexures and copies by hand at a stipulated receipting venue and during a specified period in Cape Town.

In **Cluster C**, applicants will be required to submit the completed application forms, annexures and copies by hand at various pre-advertised regional receipting points along the coastline during a specified period.

In **Cluster D**, applicants will be required to submit the completed application forms, annexures and copies by hand at various pre-advertised regional receipting points along the coastline during a specified period. The receipting points will be the same as the distribution points and distribution and receipting will occur at the same venue and during the same period.

(k) Copies

Cluster A

Cluster A applicants will be required to complete their application form electronically and save it on to the CD's provided for this purpose. Applicants will be required to print out a hard copy version of the completed application form. The printed version has to be signed and the declaration must be attested to before a commissioner of oaths. This version must then be photocopied. In total, applicants will be required to hand deliver at the stipulated venue and time period:

- ❑ One copy of the electronic version of the application saved on the CD provided for this purpose;
- ❑ A print-out of the electronic version, duly signed and commissioned, with the required schedules in the form of annexures; and
- ❑ A copy of the signed and commissioned printed version of the application and the annexures.

Clusters B, C and D

The applicant or authorised representative of a **Cluster B, C and D** applicant will be required, after the application form is completed, to sign the declaration and to attest to it before a commissioner of oaths. This application form, together with its annexures must be photocopied and both original and copy must be submitted.

(l) Design of criteria and weighting

Information submitted by applicants will be captured on a database. The policies, the database and information submitted by way of annexures, will be then be used for the development of detailed criteria and weighting for each sector for the purposes of assessing the applications and thereafter the allocation of quantum or effort.

(m) Information to be considered

The approach set out below will be adopted by the delegated authority and the appellate authority regarding information to be taken into account for assessing the applications.

(i) Parts of application form not completed

Unless otherwise indicated, if a part of the application form is not completed, it will be assumed that that part of the form does not apply to the applicant. If the section has positive points associated with the answer, no points will be awarded.

A specific icon (the "warning sign" icon) will be used to indicate where, if not completed, an answer adverse to the applicant will be assumed. For example, if left blank, it will be assumed that the applicant answered "yes" to a question such as: "Have you ever been convicted of an offence under the MLRA"? The warning sign icon may also be used to indicate that if the answer to a positively framed or an open-ended question is left blank, it will be assumed that the applicant answered the question negatively. For example, if left blank, it will be assumed that the applicant answered "no" to a question such as: "Have you participated as a crew member on a vessel that operated in a limited or full commercial fishery?"

(ii) Late information

Information submitted after closing day will not be considered, unless requested by the Rights Verification Unit, the delegated authority or the Minister as part of the rights allocation or the appeal process. The approach to the submission of additional information on appeal is described below.

(iii) Information from external sources

Prejudicial information about an application received from external sources will not be taken into account by the Minister or the delegated authority unless the applicant is afforded the opportunity to make representations in respect of that information.

(iv) Use of Departmental databases

The Minister or the delegated authority may use information contained in the Department's own databases during the long term rights allocation process, but will do so only to the extent that applicants were afforded the

opportunity to make representations concerning the correctness of the data.

(v) Submission of false information or documents and non-disclosure

Applicants or their authorised representatives are required to attest to a declaration before a commissioner of oaths stating, amongst other things, that they have not submitted false information or false documents and that they have not failed to disclose material information. The submission of false information or false documents or the failure to disclose material information will constitute a independent ground for refusing an application.

It will be assumed that an applicant has provided false information if there is a material discrepancy between the information provided by the applicant and the information contained in databases held by the Department and where both versions cannot be correct. It will further be assumed that an applicant has provided false information when there is a material discrepancy between the information provided by the applicant in the original application and information provided by the applicant on appeal, and where both versions cannot be correct.

In addition, the making of a false statement in an attested declaration, knowing it to be false, constitutes a criminal offence.

(vi) Copies of documents

Applicants will not be required to have any copy certified as a true copy but it will be assumed that any copy submitted is an exact replica of the original.

(n) ***Calls for further information, investigations and consultation***

The Minister or the delegated authority may invite applicants to make oral submissions or to present further information in writing if there is uncertainty concerning a material issue in a substantial number of the applications. If oral hearings are held, legal representatives will be permitted to address the Minister or the delegated authority.

The Minister or the delegated authority may request the Rights Verification Unit to investigate any matter, including the correctness of information provided. Applicants must co-operate with investigators by timeously submitting responses to written requests for information or explanations, by attending meetings with investigators, by answering questions satisfactorily at such meetings, and where necessary, by granting

investigators access to premises, vessels and documents. The failure to co-operate will constitute an independent ground for refusing an application.

(o) Support for delegated authorities

The delegated authority responsible for the decisions on the applications in a sector may be supported by an "Advisory Committee", and also by professional project managers, consultants and legal practitioners. The role of the Advisory Committees will be determined by the delegated authority. The Advisory Committee may be called upon to assist in the assessment of the applications under the supervision of, and in accordance with the criteria and weighting determined by, the delegated authority.

(p) Provisional lists

The delegated authority may issue provisional lists for comment on any aspect in any sector. So, for example, in **Clusters C and D** the delegated authority may request comment on whether the provisionally successful applicants are dependent on the resource and on the basis of the comments received make a final decision.

The delegated authorities for **Cluster A and B** fisheries may invite representations regarding the assessment of the applications before making final decisions. In these sectors, delegated authorities may consult with interested and affected parties on the method of allocating quantum or effort before taking these decisions.

(q) Notification of decisions and the reasons

After the delegated authority has made decisions on the allocation of rights and quantum or effort, the Department will notify an applicant in writing of the decision on the application. In addition, the Department will publish the results electronically and communicate the results through recognised industrial bodies and interest groups.

Unsuccessful applicants

Unsuccessful applicants will receive the following together with the letter informing them of the outcome of the application:

- ☐ The General Published Reasons which will record the criteria, the decision-making process and the methodology pertaining to decisions on quantum or effort;
- ☐ A specific reason why the application was unsuccessful;

- ❑ An appeal form, which applicants must submit together with the appeal;
- ❑ A notification of the closing date, details of the appellate authority and other formal requirements for the submission of appeals; and
- ❑ A copy of any final score sheet used to record the assessment of the application.

In addition, the following documents will be automatically available for inspection or purchase at the prescribed fee:

- ❑ The Spreadsheet of Decisions which contains a summary of the assessment of all the applications in a sector;
- ❑ Final Score sheets of other applicants; and
- ❑ The decision-making lists of the delegated authority or the Minister.

The specific reason contained in the notification letter to unsuccessful applications, together with the General Published Reasons, the final score sheet and the information that is automatically available, constitute the reasons for a decision to refuse an application.

Successful applicants

Successful applicants will receive the following together with the letter informing them on the decision on their application:

- ❑ The General Published Reasons which will record the criteria, the decision-making process and the methodology pertaining to decisions on quantum or effort;
- ❑ An Appeal Form, which applicants must submit together with an appeal on quantum or effort;
- ❑ A notification of the closing date, details of the appellate authority and other formal requirements for the submission of appeals;
- ❑ A copy of any final score sheets used to record the assessment of the application; and
- ❑ A set of generic permit conditions that are applicable to the specific fishery.

In addition, the following documents will be automatically available for inspection or purchase at the prescribed fee:

- ❑ The Spreadsheet of Decisions which contains a summary of the assessment of all the applications in a sector;
- ❑ Final Score sheets of other applicants; and
- ❑ The decision-making lists of the delegated authority or the Minister.

The General Published Reasons, the final score sheet and the information that is automatically available, constitute the reasons for decisions to grant an application for a commercial fishing right and to award quantum or effort.

(r) Appeals

Every applicant will have the right to appeal against the decisions of the delegated authority. The appeal may be lodged against a refusal to grant a right or against the decision on quantum or effort. Details about the submission of appeals will be contained in the notification letter.

The appellate authority will consider the facts as they were at the closing date for applications and will not take into account facts that came into existence thereafter. For example, if an applicant made an investment in a vessel after the closing day for applications that fact will not be taken into account when considering the appeal.

Once a decision is taken, the appellant will be informed of the appellate authority's decision in writing.

(s) Access to information

The following records will be automatically available for inspection or purchase at the prescribed fee after the results are announced:

- Any score sheet, spreadsheet or other document used by the delegated authority, the Minister, or their assistants, to record the assessments of the applications; and
- At the request of the applicant or its authorised representative, the applicant's own application or appeal documentation.

Requests for access to the following records will be dealt with under the Promotion of Access to Information Act 2 of 2000:

- The application form of another applicant;
- The annexures submitted together with an application of another applicant; and
- Appeal documentation submitted by another applicant.

In respect of access to these records, the Department's information officer (the Chief Director: Resource and Coastal Management) will apply the procedures and provisions of PAIA. In order to assist with the administration of access to information applications, applicants will be required to submit certain documents in

respect of which the information officer may refuse access, such as those relating the applicant's fishing plans, marketing plans and financial statements, in a separate folder.

6.4 Decision-making

All decisions will be based on the applicable laws and guided by the applicable policies. The policies and the database compiled after the applications are received, will be used to develop more refined criteria and weighting for purposes of the assessment of the applications. These criteria are developed with reference to data received after closing day and are accordingly not released before the allocation process.

(a) *Criteria used for decision-making on the allocation of rights*

The Department expects a large number of applications for long term rights and anticipates that, given the current limits on catch or effort in all the fisheries, not applicants will be granted rights. Some applicants will be rejected because they do not meet the basic requirements. The rest are ranked according to a set of objective criteria in order to identify the best applicants in terms of the policies and weighted criteria. The process is competitive and the aim is to identify the best applicants.

Four types of criteria will be used to assess the applications.

Applications will be screened in terms of a set of "*exclusionary criteria*", and thereafter ranked in terms of a set of "*weighted balancing criteria*". In addition, and in some sectors, the delegated authority may employ one or more of a number of "*tie-breaking factors*" in order to make a decision if there are too many applicants with the same score. A proportion of the TAC or TAE will then be allocated to each successful applicant in terms of a set of "*quantum or effort criteria*".

(i) Exclusionary criteria

Three types of exclusionary criteria will be employed.

Firstly, an application will be screened to determine whether it was properly lodged. An application is improperly lodged if it was received late; if the applicant made no payment or short payment or late payment of the application fee; or if it was lodged in a manner contrary to the instructions, such as by fax, or on a form other than the official prescribed application form. The delegated authority and the Minister has no discretion to condone non-compliance with the lodgement requirements.

Secondly, an application will be screened to determine whether it is materially defective. An application is materially defective if the declaration is not signed by the applicant, or if the applicant's declaration was not attested to by a Commissioner of Oaths, or if more than one application was received from the applicant for a fishing right in the same sector, or if the applicant provided false information or false documents, or failed to disclose material information, or attempted to influence the Minister or the delegated other than in the manner provided for in this General policy during the application period. In Cluster A, independent auditors are required to verify certain responses by the applicant and to prepare and sign a report in this regard. If the applicant relies on information provided by holding companies or other members of a group of companies or joint venture partners, the authorised representatives of these entities are also required to sign and to attest to a declaration. The application will also be materially defective if a report of the independent auditor is not provided and signed (if applicable) or if the declaration of the authorised representative of the holding company, member of a group of companies or joint venture partner is not signed and attested. The delegated authority and the Minister has no discretion to condone non-compliance with the requirements relating to materially defective applications.

Thirdly, an application will be screened to determine whether an applicant meets the minimum essential requirements for participating in the sector. The delegated authority and the Minister has no discretion to condone non-compliance with an essential requirement for participating in the sector. The essential requirements differ from sector to sector. For example, in the previous allocation process for abalone divers, applicants were required to demonstrate, amongst others, that the applicant was a qualified diver and certified as a Class I (with surface supply), II or III Commercial Diver under regulation 14 of the Regulations promulgated under the Occupational Health and Safety Act, 1993 (GN Regulation 10 of 11 January 2002).

(ii) Balancing criteria: new entrants and medium term right holders

Applications that were properly lodged, not materially defective and that meet the essential requirements will be scored in terms of set of balancing criteria ("*the balancing criteria*"). The balancing criteria will be weighted for purposes of ranking the applicants. Some of the criteria, such as transformation, will apply across all sectors, while others will be sector specific.

The applications from medium right holders will not be scored in terms of the same criteria and weighting as potential new entrants and will be ranked separately. Cut-offs will then be determined separately for medium term right holders and potential new entrants. All applicants with a score equalling or more than the cut-off will be allocated rights.

(iii) Tie-breaking factors

If there are too many applicants with the same score, the delegated authority may use tie-breaking criteria, in order to choose between the applicants with the same score. The tie-breaking factors may comprise of criteria not scored or scored criteria differently weighted.

(b) *Criteria used for awarding quantum or effort*

There are two separate decisions. After the decisions identifying the successful applicants are taken, the delegated authority will decide on the allocation of quantum or effort to each successful applicant in line with the policy described in paragraph 7.2 below.

PART C: CROSS CUTTING POLICY CONSIDERATIONS FOR THE ALLOCATION OF RIGHTS

7. Policy Considerations

This General policy must be read with the fishery specific policy adopted for each fishing sector. The latter prevails over the former, if more specific in respect of a particular sector.

The policy considerations set out below, along with the database compiled after applications are received, will guide the delegated authority in developing detailed exclusionary criteria, the balancing criteria for medium term right holders and potential new entrants and the tie-breaking factors. The Fishery specific policies will provide further guidance in this regard.

This General policy and the fishery specific policies do not lay down hard and fast rules or cover every aspect and consideration that will be taken into account in determining and applying criteria for balancing, tie-breaking and determining quantum or effort. Delegated authorities will be empowered to develop and refine criteria as long as these may be inferred from, and are consistent with, the applicable laws, this General policy and the applicable fishery specific policy.

Unless otherwise specified in the application forms, only information pertaining to the applicant will be taken into account. In respect of transformation, job creation and investment and other specified aspects, applicants

that form part of a group of companies or joint venture, may be required to submit data about the group or joint venture (and not the data of the applicant alone).

7.1 Duration of right

Long term fishing rights will be granted in all the commercial fisheries, for a period of up to 15 years, except in the Oysters and White Mussel fisheries, which are in an early stage of development.

The duration of rights will be determined by, amongst other things, the level of transformation in the fishery, the current knowledge of the biological status of the target species; the capital intensity of the fishery and the need to encourage further investment and economic growth, and the performance of participants in the fishery.

7.2 Form of right holder

Section 18 of the MLRA provides that only South African persons may hold fishing rights. Section 1 of the Act defines a South African person as a South African citizen or a company, close corporation or trust. Therefore, fishing rights may not be allocated to entities such as partnerships, associations, joint ventures, community associations or co-operatives.

In terms of this policy, commercial fishing rights in the Cluster C and D fisheries will be granted only to individuals (natural persons), except in the Hake Handline and KZN Beach Seine sectors, where close corporations will also qualify. Individuals who were members of close corporations, shareholders of companies and beneficiaries of trusts when these entities were allocated medium term rights in 2001 and 2002 in Cluster C and D fisheries (except Hake Handline and KZN Beach Seine) will be considered to be medium term right holders for the purpose of the long term rights allocation process. The delegated authority may regard other individuals as medium term right holders if, for example, they obtained control over a medium term right, by way of a transfer approved by the responsible authority.

In terms of this policy, commercial fishing rights in the Cluster A and B fisheries will be granted only to entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Medium term right holders that operated in the form of trusts or co-operatives or sole proprietorships, must take steps to convert to a close corporation or a company before the allocation process and nominate the new entity as the applicant. The nominated close corporation or company will be treated as an existing right holder, provided that such an applicant demonstrates that the close corporation or company will be the sole successor of the previous right holder. A right will be granted to the new entity and not to the individual or the trust. This policy does not mean that a trust is precluded from holding shares in an applicant or right holder.

In some fisheries, applicants will be encouraged to merge or to share resources after the allocation process. Further details are provided in fishery specific policies.

7.3 Transformation

The MLRA requires decision-makers to have regard to the need to restructure the fishing industry in order to address historical imbalances and to achieve equity within all the branches of the fishing industry. Transformation is also a constitutional imperative in South Africa. The Broad-Based Black Economic Empowerment Act 53 of 2003 is one of a number of statutory instruments giving effect to this constitutional imperative. This Act provides that the Minister of Trade and Industry may by notice in the Gazette issue codes of good practice on black economic empowerment. Draft codes on certain aspects have been published for comment. The codes provide for a "*balanced scorecard*" to measure progress and status within enterprises as well as the adoption of transformation charters for specific sectors of the economy by the major stakeholders in those sectors.

The Act and the draft codes were considered in the development of this policy and the fishery specific policies. However, owing to the nature of the rights allocation process, the Minister of Environmental Affairs and Tourism has thus far not encouraged the adoption of charters for fishing sectors and has not adopted the weighting and benchmarks set in the draft codes relating to ownership and management. When allocating fishing rights, the delegated authority is called upon to compare applicants with each other, rather than against an external benchmark. Transformation is an extremely important consideration in this comparative balancing process. The process is competitive and no "*benchmark*" can be set in advance. In a sector that is not sufficiently transformed, applicants with higher transformation scores than others will always stand a better chance of being allocated a right or a larger proportion of the available TAC or TAE. The policy is that within such a competitive comparative process, the adoption of charters or benchmarks is not always the appropriate vehicle to further transformation.

The policy is to further transformation and to improve on the levels of transformation achieved during the medium-term rights allocations. In the long term rights allocation process, only quality transformation will be recognised, that is, transformation which results in real benefits to historically disadvantaged persons.

Persons were historically disadvantaged in the fishing industry on account of their race in respect of access to rights. It is accordingly necessary to promote the participation of such historically disadvantaged persons within all branches in the fishing industry. It is also necessary to address historical imbalances and achieve

equity within the fishing industry insofar as the participation of women is concerned, as they too, were marginalised in the past. In the allocations process the race and gender of applicants, and in the case of juristic persons, the race and gender of the applicant's shareholders or members, management, suppliers and workforce, may therefore be taken into account. This will be done in the manner described below. In addition, corporate social investment may be taken into account in the manner described below.

In **Cluster A**, applicants will be required to engage external auditors to verify the information submitted in terms of a set of prescribed procedures.

(a) Race

Persons historically classified as "*African*", "*Coloured*" and "*Indian*" will be considered to be historically disadvantaged on account of race, provided that they are South African citizens by birth or obtained citizenship prior to 27 April 1994.

In **Clusters C and D**, a fixed number of points will be allocated to black applicants. Where close corporations qualify (hake handline and KZN Beach Seine), the close corporation applicant will be granted a percentage of the points allocated with reference to the percentage of the membership interest held by black persons in the close corporation. Black management, employment equity, affirmative procurement and corporate social investment may also be considered in **Clusters C and D**.

In **Clusters A and B**, points will be allocated for black ownership and management, in the manner described immediately below.

(i) Ownership

Beneficial ownership of the applicant by black people, in the form of unrestricted voting rights and economic interest associated with equity ownership, will be assessed and taken into consideration. In determining whether voting rights and economic interest is "*unrestricted*" the delegated authorities may have regard to draft Code 100, published for comment in terms of the Broad-based Black Economic Empowerment Act. The weighting set out in the Code will not be used.

The flow-through principle, proposed in Code 100, may also be used, if appropriate. For example, if company A holds 20% of the shares in company B and company A is 10% owned by the designated race groups, its share contributes 2% to the economic ownership of company B of such groups. If company A held 55% of

company B's share and company A was 60% owned by blacks, it contributes 33% to B's economic ownership by black persons.

Additional points may be allocated to those applicants that have succeeded in empowering employees through share participation schemes, provided that the applicant can demonstrate that the employees derived real benefits (such as dividends) from the scheme.

In the case of applicants for medium term rights (successful or unsuccessful), points may be attached to both present status and progress made. The delegated authority may set a level of transformation for achieving the maximum number of points for black ownership. The maximum number of points for ownership by blacks will then be awarded to applicants that achieved that level.

(ii) Management

The senior or executive management of an applicant entity by black persons will be taken into account. Senior or executive management generally describes those persons responsible for guiding the strategic activities of the company and who report directly to either the managing director or the Board. For purposes of the long term rights allocations process, the management of the applicant will be assessed in three ways. First, the data submitted in employment equity reports will be considered, if available. If not available, applicants will be requested to submit similar data. Second, the composition of the board of directors will be taken into account. Third, applicants will be required to submit data concerning the top salary earners of the applicant.

(b) Gender

If practical, beneficial ownership and management by women will be taken into account in **Clusters A and B**. In **Clusters C and D**, gender may be taken into account, for example, as a tie-breaking factor.

(c) Employment Equity

Applicants who are required by law to comply with the Employment Equity Act 55 of 1998 must demonstrate that they comply. The number of black persons and women employed by the applicant may also be a balancing criterion. More points will be allocated to blacks and women employed at the higher end of the applicant's salary bands or in professional and skilled positions, than at the lower end and in unskilled positions. For example, applicants may be required to specify the percentage of persons of blacks and women in the top 10% of their salary earners, between the top 10% and the top 30%, between the top 30%

and the top 50%, and below the top 50%, or to specify the number of blacks and women appointed in professional and other skilled positions. More points will be allocated for blacks and women in the top earning brackets than at the bottom earning brackets and more points will be allocated for blacks and women appointed in skilled positions than unskilled positions. Because of the racial structuring of the South African workplace, wage differentials may be taken into account.

(d) Skills Development

Applicants will be required to demonstrate that they comply with the Skills Development Act 97 of 1998 and the Skills Development Levies Act 9 of 1999. If an applicant participate in learnership programmes or spends proportionately more on the training of blacks, this factor may be taken into account.

(e) Affirmative Procurement

Affirmative procurement (procurement from black companies) may be considered as a factor.

(f) Corporate Social Investment

The percentage of net profit spent on corporate social investment during the previous rights period, may be taken into account. Tax-deductible donations will be considered to be corporated social investment but other donations may also be considered.

7.4 Multi-sector involvement

In general, it is not a policy objective to preclude or discourage the holding of rights in more than one fishery. This is subject to two exceptions.

Firstly, right holders in the **Cluster A and B** fisheries (including their controlling shareholders or members and members of their executive management teams) will not be allowed to hold commercial rights in the **Cluster C and D** fisheries, which are fisheries reserved for small and medium enterprises and individual fishers reliant on those fish stocks for their livelihood. Right holders in **Clusters C and D** who intend to obtain shares or interests in **Cluster A and B**, after allocations, may be permitted to transfer their **Cluster C and D** rights to other natural persons. The delegated authorities for the transfer of rights will consider applications for such transfers.

Secondly, right holders will not be permitted to hold rights in more than one **Cluster C or D** fishery, except that:

- Right holders may hold any combination of the following rights: white mussel, west coast rock lobster (near shore) and netfish (Gill and Treknet and Beach Seine);
- A KZN Beach Seine right may also be held with an oyster right.

7.5 Consolidation

Between 1994 and 2004, the number of right holders in the commercial fisheries increased dramatically. When allocating rights, there was a particular regard to the need to permit new entrants, particularly those from historically disadvantaged sectors of society. As a result, in many sectors there are numerically representative levels of historically disadvantaged right holders. But numeric representivity does not always translate into broad-based and effective participation of historical disadvantaged persons in the fishing industry. The consolidation, rather than the proliferation of right holders, has become necessary in order to advance effective participation.

Consolidation is also necessary to rationalise the industry, to improve compliance and to reduce the administrative burdens and costs to the Department and right holders. This means reducing the number of entities, particularly those that share the same or similar shareholders and executive management team and physical addresses in a particular fishery. In a number of sectors, window periods will be opened after the allocation process where the Minister will look favourably at forms of consolidation, which do not undermine transformation. In the long term right allocation process, medium term right holders will not be permitted to proliferate within the same sector by applying for additional rights under a different guise and may not hold shares in potential new entrant applicants.

7.6 New entrants

The issue of new entrants is a fishery specific one and is dealt with in the fishery specific policies. A distinction is drawn, in the Fishery specific policies, between "*additional*" entrants and "*new entrants*". In order to permit the participation of additional entrants the number of participants in a sector will have to be increased from the existing number. In general, there is very little room to accommodate additional entrants because most of the fisheries are already over-subscribed. However, new entrants may be accommodated through the replacement of unsuccessful right holder applicants. This will be done if current right holders have failed to transform meaningfully, or if current right holders have failed to perform or invest adequately, or if the current effort within a specific fishery is considered to be less than optimal. In some sectors, in order to consolidate the

right holders in a sector, the number of participants will be reduced by not granting rights to low scoring existing right holders, and not replacing them with new entrants.

As a general rule, the Department will not allow right holders who sold or in any way alienated a fishing right to re-enter that commercial fishery. The same applies to shareholders or members of close corporations who sold a significant share of the right holder.

7.7 Performance

The performance of existing right holders may be assessed in the manner described below.

(a) Financial performance

Financial performance of the applicant may be assessed in terms of a set of financial ratios which lend themselves to benchmarking backed up by audited financial statements. The financial statements may also be used to determine who the real beneficiaries of the allocation are ("follow-the-buck" principle) and to determine whether the right holder has invested in the industry.

(b) Payment of levies

Applicants be required to provide proof that they are up to date on the payment of their levies on fish landed during the medium term right period. If levy payments have been outstanding for a period in excess of 60 days, the applicant may be penalised. Should the applicant nevertheless succeed in being granted a right, the Department will not issue a permit until the full amount outstanding is paid.

(c) Compliance

Applicants convicted for serious infringements of the MLRA, the Regulations, permit conditions and other fishing related offences, during the medium term right period, may be excluded. Minor infringements, including the payment of admission of guilt fines, may be taken into account as a balancing criterion.

Vessels listed on the negative lists of any Regional Fisheries Management Organisation ("*RFMO*") will not be allowed to harvest fish stocks. Applicants who own (wholly or in part) or nominate vessels that are negatively listed will be rejected.

The Department's records relating to infringements of the MLRA will be made available for inspection prior to the allocation process.

(d) Fishing performance

The fishing performance of medium term right holders may be examined to determine whether an existing right holder applicant has effectively harvested a medium-term allocation. Applicants that did not harvest any fish during a fishing season or who have not collected a permit for an entire season may be excluded. Undercatching and overcatching may be used as balancing criteria in certain sectors.

The Department's records relating to catch returns will be made available for inspection prior to the allocation of rights, if they are to be used in the allocation process.

7.8 Investment

Investment in a vessel nominated to harvest the resource and other fixed assets will be recognised as long as that investment demonstrates a genuine intention to share the risk of participating in the sector. Shareholding in vessels obtained at minimum or no cost to the applicant, will not be recognised as investment. The level of investment will be assessed with reference to the quantum held during the medium term rights allocation process.

7.9 Paper Quotas

The delegated authority must endeavour to prevent paper quota applicants from entering the industry and to remove paper quotas that currently hold rights. Paper quotas undermine or circumvent the objectives of the rights allocation process.

(a) New entrants

In the long-term rights allocation process, the delegated authority will exclude new entrant applicants who appear to be paper quota risks. For this purpose, the delegated authority will consider an applicant to be a "paper quota risk" if that applicant appears to have no serious intention to share the risk of fully participating in the sector, especially if a danger exists that an applicant has not applied in order to enter the industry but to gain some financial benefit without direct involvement in the main activities associated with exploiting any right that may be granted. In determining whether a new entrant applicant poses such a paper quota risk, the

applicant's assets and access to capital and its financial and business planning and commitments should be considered.

The delegated authorities will also exclude as "*paper quota risk*" applicants considered to be "*fronts*" for other beneficiaries. Fronting occurs when, in order to circumvent a policy objective, an application is made through another entity. An example is an application made by an ostensibly transformed entity with the intention that the main benefits will flow to an untransformed entity or individuals that are not black persons.

(b) Medium term holders

Delegated authorities will also exclude medium-term right holders who are paper quotas. For this purpose, the delegated authorities will consider as paper quotas, medium-term right holders with weak or non-existent performance records combined with no investment or involvement.

Delegated authorities will also exclude "*fronts*" and will for this purpose employ the "*follow the buck*" principle to determine whether a policy objective has been circumvented. For example, delegated authorities will seek to determine whether ostensibly transformed right holders have in fact granted any financial or other benefit to black shareholders or members. This kind of front will not be re-allocated rights.

As a general rule, delegated authorities will not allow right holders who have sold or in any way alienated a fishing right to re-enter that commercial fishery under a different guise.

(c) Clusters C and D

In **Cluster C and D** sectors, large groups of identical or very similar applications sponsored by third parties, will be excluded as paper quota fronts. In general, no more than one right will be allocated per household. In these sectors, applicants will be required to disclose their relationship to other applicants in the sector. If more than one member of a household applies for a right, all the applications from that household may be excluded, unless the applicants clearly and convincingly demonstrate that they have established separate small commercial operations.

(d) Future right holders

After the long-term rights allocation process, the Department will endeavour to withdraw the rights of paper quota right holders by applying section 28 of the MLRA. As a rule, the Department will revoke fishing rights held by participants who fail to effectively utilise a right.

7.10 Value adding

Value-adding means those activities that add commercial value to fish, regardless of whether such value is attained on the South African or international market. Value-adding may be rewarded because, amongst other things, it stimulates the creation of jobs and wealth.

7.11 Enterprise development

Enterprise development constitutes measures to increase black ownership, management and skills in existing and new enterprises, including investment programmes and access to finance. These measures may be rewarded provided that they do not constitute attempts to circumvent the legislative protection of workers contained in the labour, health and safety laws.

7.12 Job creation

An important purpose of allocating long term rights is to create an environment conducive to job creation, in particular, the creation of more permanent and better quality jobs in the fishing industry.

Jobs created by medium right holders per ton allocated and increases in jobs as a result of the allocation of medium term rights, will be rewarded, at least in clusters A and B. The creation of permanent employment is favoured over seasonal employment and seasonal employment is favoured over contract employment.

7.13 Dependency and on-board participation

An important objective of the allocation of rights in **Cluster C and D** fisheries is to grant rights so that individuals can establish small commercial enterprises and create full-time occupations for themselves. Financial dependency on the income generated by fishing will therefore be a factor in most of the **Cluster C and D** fisheries. It will be a requirement that the applicant is personally involved in the fishing or harvesting of the resource. More particularly, "*on-board participation*" by the right holder will be a requirement in most of the

Cluster C and D fisheries. Only applicants incapable of participating due to a permanent physical disability will be exempt from this requirement. Women applicants will not be exempt from having to participate on board.

Current right holders will be required to provide proof of their dependency by way of financial statements and tax returns. Potential new entrants will be required to provide proof of dependency by demonstrating their historical involvement in the sector applied for or their involvement in the fishing industry.

7.14 Local economic development and geographic justice considerations

Delegated authorities may reward the landing of catches in fishing harbours outside the metropolitan areas to promote local economic development, although it may not be possible to achieve this objective in all sectors. In order to ensure that all fishing communities share in the resource, the delegated authorities may use landing site as a scoring or tie-breaking criteria. In addition, the Department may develop policies and a system of levy concessions that encourage rights holders to land or process fish in harbours that are economically depressed.

7.15 Vessels and fishing effort

(a) Vessels

If applicable to the sector, every applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of that particular fish stock or stocks. All vessels will have to be registered with the Department in order to be nominated as a catching vessel.

A suitable vessel will be described in the applicable fishery specific policy, but the minimum requirements for suitability will be:

- ☐ South African flagged (unless an exception is made in a Fishery policy);
- ☐ Unless exempted, fitted with an approved and functioning vessel monitoring system ("VMS");
- ☐ Registered by the South African Maritime Safety Association as being suitable for fishing; and
- ☐ Not listed on any RFMO negative list.

The Department will require all applicants for commercial fishing rights to utilise the nominated vessel for harvesting the resource. Vessel changes will only be allowed in appropriate instances.

(b) Fishing effort

The Minister and the Department is obliged to conserve marine living resources in terms of the MLRA and to apply precautionary approaches in respect of the management and utilisation of these resources. A key element in the management and conservation of marine resources is the limitation of applied fishing effort to ensure the optimum utilisation of such resources.

The Department is generally opposed to any further increase in vessel effort. Vessel overcapacity is regarded as one of the primary threats to South African fish stocks. It also places additional burdens on the Department, both in respect of monitoring and enforcing compliance and managing the exploitation of the resource. Subject to fishery specific policies, joint and cross-sectoral use of vessels is encouraged, as this will result in more effective and efficient use of vessels throughout the season.

On the other hand, it is recognised that ageing vessels must be replaced, inter alia for safety reasons. Modernisation of the fleet will inevitably result in an increase in catch capacity. Where necessary, effort limitations will be introduced to limit effort.

7.16 Safety of staff and crew

Applicants will be required to demonstrate that they have complied with the regulatory requirements of the South African Maritime Safety Authority Act 5 of 1998 and the regulations promulgated in terms of the Merchant Shipping Act, 57 of 1951.

In addition, applicants will be required to show that they comply with the Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993. Applicants are further reminded of the Department's directive that companies are required to adopt HIV/AIDS policies and may be required to attach these to the 2005 applications.

7.17 By-catch management and reduction measures and dumping

The reduction of and mitigation against unutilised and undersize by-catches is an important consideration. Delegated authorities may accordingly take into account measures taken and planned to mitigate against these types of by-catch. In some fisheries by-catch is unavoidable and constitutes an accepted part of a catch that requires appropriate management procedures. The Department will continue to develop policies that ensure improved assessment and management of by-catch species.

The Department is in the process of developing a comprehensive management plan regarding by-catch. In determining the appropriateness of by-catch mitigation and reduction devices the Department will consider its suitability to a fishery having regard to the nature of the fishery itself; the cost implications of mandating any particular device or mitigation strategy; the local and foreign comparative learnings; and inputs of local fishers and their role in developing such strategies (if applicable).

The Department encourages measures to minimize incidental bycatch of seabirds, sharks, marine mammals, juvenile fish and various vulnerable or threatened marine species. South Africa has developed a National Plan of Action (NPOA) for reducing incidental bycatch of seabirds as well as a draft NPOA for reducing incidental bycatch of certain species of shark. In this regard, the Department would strongly urge various fishing sectors to employ the use of mitigation devices such as, the tori-line (bird by-catch mitigation for longliners), escapement or exclusion devices for trawl sectors (escapement of juvenile fish and possibly marine mammals) as well as specific mesh sizes to curtail retention of juvenile fish in trawl nets. In addition, the Department strongly condemns the practice of high grading and dumping fish as well as deliberate targeting of by-catch species. The Department would further consider temporal and spatial closures for fishing, where it is deemed necessary for the protection of spawning stocks as well as protection of nursery grounds.

7.18 Environmentally sustainable practices

The delegated authorities may reward fishing operations that have embarked upon, and invested in or supported research into, environmentally sustainable best practices. In particular, the Department has identified the following issues as requiring attention:

- Introducing energy and fuel reduction mechanisms in factories and vessels;
- Reducing by-catches and bird mortality;
- Reducing light pollution; and
- Minimising the adverse affects of marine pollution.

7.19 Bait Fisheries

The delegated authorities will not allocate commercial rights for the purposes of bait collection. The only exception to this policy will be in the white mussel sector, which is still developing a commercially viable market for human consumption.

PART D: CROSS CUTTING POLICY CONSIDERATIONS FOR THE ALLOCATION OF QUANTUM OR EFFORT

8. Policy Considerations

In general, the decision to allocate quantum or effort is taken separately from the decision, although inter-linked, of identifying successful applicants. The considerations that apply to rights allocation apply in general to quantum decisions. In this part of the policy, additional considerations that apply to quantum decisions are set out. The policy considerations for the allocation of effort are dealt with in the sector specific policies.

8.1 Clusters A and B

The allocation of quantum in the Cluster A and B sectors is dealt with in the sector specific policies. In some sectors, the mechanism for allocating quantum will form the subject of further consultation, once the applications in a sector have been assessed and the successful applicants have been identified. Subject to the outcome of these consultations, the following principles will be applied in the allocation of quantum:

Firstly, quantum will be allocated with reference to the applicant's 2005 allocation. The delegated authority will determine a minimum amount to be allocated to new entrants, which as a general principle will not be less than the lowest amount allocated to a successful medium term right holder applicant.

Secondly, because it is government policy to support small business and broad based black economic empowerment, the Minister directs the delegated authorities to consider re-distributing at least 10% of the TAC to small businesses, which will include new entrant and medium term right holders. In considering whether to re-distribute to small businesses, the delegated authorities must have regard to the nature of the fishery and the level of transformation. In fisheries that are sufficiently transformed and representative of small businesses, re-distribution may be unnecessary. In fisheries that are capital intensive in nature and are accordingly not ideally suitable for small business development, the delegated authorities must endeavour to re-distribute at least 10% of the TAC to those right holders that have historically received smaller allocations but who have transformed and performed well.

Thirdly, and in addition to the above two principles, the delegated authority may allocate quantum based on criteria intended to achieve the objectives set out in the respective sector policies, such as transformation and performance. These criteria must be designed in a manner which should ensure that all successful applicants, regardless of size, will be able to benefit if they meet the criteria.

8.2 Clusters C and D

Successful applicants in **Cluster C and D** sectors will be allocated a fixed amount of the available TAC or TAE. This amount will not necessarily be the same for each zone or TURF.

8.3 Excess quantum left after appeals

Excess quantum left after appeals will be distributed proportionately.

8.4 Increases in the TAC/TAE

Increases in the TAC or TAE will be allocated in terms of the applicable provisions of the MLRA.

PART E: POST ALLOCATION MANAGEMENT CONSIDERATIONS

In this part, a number of post-allocation policy considerations are addressed in general terms. Although these policies will not be directly applied in the long-term rights allocation process, it is necessary to include them in this General policy in order to inform potential applicants of the Department's management objectives after the rights allocation process is completed.

9. Co-Managing the Commercial Fisheries

The Department is gradually introducing a change in the management and regulation of South Africa's commercial fisheries, by moving towards a system of co-managing the fisheries with right holders, fishing communities and other relevant stakeholders.

In terms of this approach, management of the commercial fisheries will not rest solely with the Department. The responsibility will be shared with right holders and, where applicable, with the coastal communities who rely on marine resources for their livelihood. A TURF (Territorial User Rights Fishery) system was introduced in the abalone fishery, and the Department is considering introducing a similar approach in some of the other fisheries, such as Hake Handline, West Coast Rock Lobster (Near Shore), Oysters, White Mussels and Netfishing.

As far as the larger commercial fisheries are concerned, the Department will seek closer working relations with recognised industrial bodies and interest groups to promote investment in fisheries research, management and compliance.

In order to facilitate co-management, Fishery specific **Management Working Groups** have been established in most of the fishing sectors. Right holders are represented on these Working Groups by industrial bodies and interest groups. The main purpose of a Management Working Group is to make recommendations regarding the management of the fishery, including permit conditions, closed seasons, restricted areas, the adoption and variation of sectoral management plans, compliance and vessel restrictions. As far as the larger commercial fisheries are concerned, the Department envisages sharing its biological and scientific research obligations of fish stocks and the impact of fishing on ecosystems with right holders through the Working Groups or other appropriate mechanisms.

Section 8 (1) of the MLRA provides that the Minister may, by notice in the *Gazette*, recognize any industrial body or interest group in a branch of the fishing industry which, in the opinion of the Minister, is representative of the specific body or group. A draft Policy on Recognised Industrial Bodies (*RIB's*) containing proposed recognition criteria will be made available for public comment, before the policy will be adopted. Where recognised industrial bodies exist, the Department may elect to communicate via the recognised industrial body only.

10. Levies and costs recovery

Levies are a fixed amount payable by right holders of commercial fishing rights per unit of fish landed and are therefore linked to the value of the landings. Levies are currently imposed in terms of section 29 of the Sea Fishery Act 12 of 1988.

Currently the income from levies is used to recover some of the costs that the Department incurs in managing the fisheries (including compliance and research costs). After the allocation process, the Department will investigate the feasibility of introducing a system of up-front levy payments or payment by monthly instalments on the basis of the proportion of Total Allowable Catch allocated (and not landed). The Department has also invited proposals for the introduction of a complete costs recovery system for the management of commercial fisheries.

11. Observer programme

The Department's current observer programme focuses on vessel and shore-based scientific monitoring and reporting. The Department intends to expand the role of observers in respect of compliance monitoring and reporting and to progressively increase observer coverage to as many commercial fisheries as is practically possible. The Department also intends to introduce new methods of ensuring compliance such as on-board cameras. Right holders will be expected to cover the costs associated with managing and implementing observer programmes.

12. Transfer of rights

Applications for the transfer of fishing rights are dealt with in terms of section 21(2) of the MLRA which provides that fishing rights may be transferred if approved by the Minister or his delegate.

If the members of a close corporation or shareholders of a company alienate some or all of their interests or shares, the fishing right remains with the same legal entity, and approval for the transfer of that right does not generally have to be obtained. However, any transfer of shares or of membership interest that results in a change of control over the juristic person holding a fishing right, requires approval. This is to prevent the circumvention of section 21(2) of the MLRA. In the case of a listed public company, a sale of more than 35% of the shareholding requires approval. If the right holder is an individual, an application for transfer must not only be made when the intention is to sell the right, but also when the right holder dies and the executor wishes to transfer the right to another person.

The current policy regarding the transfer of fishing rights is set out in Government Notice 1771 of 27 July 2001. This policy will be applied until replaced or amended after the allocation of long term rights. The following factors have been taken into account when considering an application for the transfer of a commercial fishing right:

- ☐ The death, dissolution, liquidation or sequestration of the right holder.
- ☐ Transformation.
- ☐ The promotion or consolidation of the number of right holders and effort in a fishery.

After the allocation of long term rights, "window" periods for the transfer of rights may be created where, in order to further transformation and consolidation, new entrants may be allowed to enter and existing rights holders may be allowed to merge.

13. Vehicle use in the coastal zone

Right holders that require the use of a vehicle in the coastal zone in order to operate effectively must apply for a permit in terms of the applicable Regulations. Right holders are advised to consider the Guidelines on the Implementation of Regulations Pertaining to the Control of Vehicles in the Coastal Zone: 2004. Both the Regulations and Guidelines are available from the Department (Chief Directorate: Fisheries Compliance) or from www.mcm-deat.gov.za. A permit fee of R500 is applicable and the permit issued will be valid for the duration of the commercial fishing right.

14. Marine protected areas and Fisheries management areas

14.1 Marine Protected Areas

The Department recognises marine protected areas as an important refuge for fish stocks under fishing pressure. At present these fish stocks include over 50 species of linefish and abalone. Marine protected areas are also recognised as an important tool to reduce illegal, unreported and unregulated fishing.

The Minister has designated a number of marine protected areas, protecting approximately 20% of South Africa's coastline. It remains the intention of the Minister and the Department to increase the extent of marine areas protected from fishing from the current 1% to the internationally determined 20% by 2015.

14.2 Fisheries Management Areas

Section 15 of the MLRA makes provision for the declaration of fisheries management areas for the management of a specified species and for the approval of a plan for the conservation, management and development of a fishery. The declaration of fisheries management areas is a further tool that may be used, in addition to the emergency measures provided in section 16 and priority fishing areas provided for in section 17, to better manage fisheries and to reduce user conflict.

15. Compliance and section 28 notices

The Department has invested in monitoring, control and surveillance ("MCS") equipment, including vessel monitoring and positioning systems, and has procured state of the art patrol vessels. The Department has further obtained the services of dedicated forensic auditing experts and specialised fisheries prosecutors.

The Department will increasingly focus on the prevention of transgressions and on self-regulation. This will be coupled with strict performance monitoring, forensic auditing, co-operation with other regulatory agencies such as the South African Revenue Service and the South African Bureau of Standards, and the application of stricter sanctions, including the revocation or suspension of rights in accordance with the provisions of section 28 of the MLRA. The Department has already concluded various memoranda of understanding with key regulatory enforcement agencies both nationally and internationally, to share information and monitor the export and import of fish products.

The Department will issue notices under section 28(1) and pursue the cancelling, revoking or suspending of fishing rights in terms of section 28(4) of the Act in all circumstances where the Department considers a breach of any provision of the MLRA, its regulations or permit conditions, to be significant. If a fishing right has been allocated and the right holder subsequently fails to pay any fee or levy imposed in terms of the applicable legislation, the Department will not hesitate to issue a notice under section 28 of the MLRA. In addition to revoking rights under section 28 of the MLRA, the Department is investigating methods of reducing quotas in cases of transgressions of the MLRA.

GLOSSARY OF TERMS

Application period	means the period commencing with the publication of the invitation to apply for a commercial right in the sector to the date on which the appellate authority finally decides the appeals in the sector.
Black persons	means Africans, Coloureds and Indians, provided the person is a South African citizen by birth or obtained citizenship prior to 27 April 1994.
Codes of Good Practice	means the Draft BEE Codes of Good Practice published by the Minister of Trade and Industry in 2004 in terms of the Broad-Based Black Economic Empowerment Act 53 of 2003.
Department	means the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management.
Medium Term Right Holder	means a right holder that was granted a medium term commercial fishing right during the period 2001/2002 – 2005 in the specific sector, or became a right holder in the sector by way of an approved transfer of the fishing right.
Minister	means the Minister of Environmental Affairs and Tourism.
New Entrant	means an applicant that is not a medium term right holder in the particular sector applied for.



DEPARTEMENT VAN OMGEWINGSKE EN TOERISME
TAK MARIENE- EN KUSBESTUUR

ALGEMENE BELEID VIR DIE TOEKENNING EN BESTUUR VAN
LANGTERMYN KOMMERSIËLE VISVANGREGTE: 2005

HIERDIE BELEID MOET SAAMGELEES WORD MET DIE TOEPASLIKE
VISSERY-SPESIFIEKE BELEID (beskikbaar by www.mcm-deat.gov.za)

Hierdie dokument is ook in Engels, isiXhosa en isiZulu beskikbaar

This document is also available in English isiXhosa and isiZulu

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Lencwadi iyatholakala nangolwimi lwesiNgesi, lwesiXhosa nolwesiZulu

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DEEL A: INLEIDING EN AGTERGROND

1. Inleiding

Hierdie *Algemene Beleid oor die Toekenning en Bestuur van Langtermyn kommersiële visvangregte* word deur die Minister van Omgewingsake en Toerisme: Tak Mariene- en Kusbestuur uitgereik en sal na verwys word as die “**Algemene beleid**”. Die Algemene beleid moet saamgelees word met die beleidsdokumente waarna verwys sal word as die “**Visserij-spesifieke beleidstukke**” of “**Sektor-spesifieke beleidstukke**” wat vir elke kommersiële en eksperimentele visvangsektor aangeneem is. In die Algemene Beleid word ‘n aantal kwessies hanteer wat betrekking het op al die visvangsektore in paragraaf 2 gelys. Hierdie dwarssnijdende beleidsaspekte, onderrig ook die inhoud van die Visserij-spesifieke beleidstukke wat die Minister se spesifieke voornemens ten opsigte van die toekenning van regte in elke visserij uiteensit. Voornemende aansoekers en belanghebbende partye moet hierdie Algemene Beleid saam met die toepaslike Visserij-spesifieke beleid lees.

2. Toepassing

Die Algemene beleid is van toepassing op die toekenning van regte in 19 kommersiële visserij: Diepsee stokvis-treilvisserij, Aanlandige Stokvis-treilvisserij, Maasbankers, Klein Pelagies, Patagoniese Tandvis, Suidkus-kreef, KwaZulu-Natale Steurgarnaal-treilvisserij, Stokvis-langlyn, Weskus-kreef (Aflandig), Inkvis, Tuna-handlyn, Seewiere, Bodem- Haaie, Handlyn-stokvis, Weskus-kreef (Aanlandig), Oesters, Witmossels en Netvis (Treknet, Kiefnet en Strandseënet), en KwaZulu-Natal Strandseënet.

Die Algemene beleid is nie van toepassing nie op –

- ❑ Bestaansvisserij: ‘n Aparte beleid sal aangeneem word, wat spesifiek oor die bestaansvisserij sal handel en wat die bestaansvisserij van Ooskus-kreef en Perlemoen in die Oos-Kaap sal insluit.
- ❑ Ontspanningsvisvang: ‘n Aparte beleid sal aangeneem word wat spesifiek met ontspanningsvisvang sal handel.
- ❑ Visvang deur buitelanders.
- ❑ Visprosseringsondernemings: ‘n Aparte beleid sal aangeneem word wat spesifiek met visprosseringsondernemings sal handel.
- ❑ Marikultuur: ‘n Aparte beleid sal aangeneem word wat spesifiek met die regulering en die bestuur van marikultuur in Suid-Afrika sal handel.

- ❑ Nie-verbruikende mariene bedrywighede, insluitende boot-gebaseerde walvis besigtiging, haaihok-duik, sportduik en SCUBA-duik. Aparte beleidskrifte sal aangeneem word wat spesifiek met hierdie nie-verbruikende mariene bedrywighede sal handel.
- ❑ Tradisionele Lynvis: 'n Aparte beleid sal aangeneem word wat spesifiek met tradisionele lynvis sal handel.

Alhoewel hierdie beleid van toepassing is op Stokvishandlyn-, Weskuskreef- (Aanlandig), Netvis (Treknet, Kiefnet en Strandseënet), KwaZulu-Natal Strandseënet, Oester en Witmossel sektore, word aansoekers in daardie sektors aangeraai om op die vissery-spesifieke beleid te fokus vir die faktore wat in ag geneem sal word by die toekenning van regte. Dit sal noodsaaklik wees vir aansoekers in hierdie sektore om die vissery-spesifieke beleid te bestudeer voordat hulle aansoek doen.

3. Oogmerk

Die Algemene Beleid, met die Vissery-spesifieke beleidskrifte, het ten doel om as gids te dien vir die langtermyn regtetoekenningsproses. Dit beskryf verder die kernfunksies van die Departement wat die regtetoekenningsproses ondersteun.

Die Minister beskou dit ook as noodsaaklik, ten bate van aansoekers, om die Departement se bestuursdoelwitte vir die onmiddellike toekoms uiteen te sit. Hierdie mag natuurlik later deur die Departement hersien word, indien dit wenslik geag word.

4. Wat onderrig hierdie beleid?

Die Algemene en Vissery-spesifieke beleidsdokumente word onderrig deur Suid-Afrika se internasionale regsverpligtinge, nie-bindende ondernemings op internasionale en streeksvlak, en die wetgewende raamwerk vir die toekenning van visvangregte.

4.1 Internasionale verpligtings in verband met die gebruik van volhoubare hulpbronne

Gedurende die *Wêreldspitsberaad oor Volhoubare Ontwikkeling (WBVO)* wat gedurende September 2002 in Johannesburg gehou is, het lande onderneem om visvoorraad in stand te hou, of te herstel tot vlakke wat die maksimum volhoubare opbrengs kan lewer. Die doel moet dringend bereik word ten opsigte van uitgeputte voorrade en indien moontlik, teen nie later as 2015 nie. Lande het ook onderneem om nasionale aksieplanne te ontwikkel en in werking te stel. Die WBVO het die behoefte geïdentifiseer om produktiwiteit en biodiversiteit

van belangrike en kwesbare mariene en kusgebiede binne en buite nasionale jurisdiksies in stand te hou. Die doel is om die ekostelsel te beskerm, deur 'n benadering te gebruik wat verwoestende visvangpraktyke elimineer, mariene beskermde gebiede vestig en die stel van en toesig oor tyd- en gebiedsluitings om broeigronde gedurende broeitydperke te beskerm. Ingevolge die *Reykjavik Declaration* van 2001 en die Johannesburg Plan van Implementering wat uit die WBVO spruit, is Suid-Afrika verbind tot die instel van 'n Ekostelselbenadering tot die bestuur van Visserye (EAF) teen 2010.

Die **Voedsel- en Landbou-organisasie se 1995- Kode van Verantwoordelike Visvangbedrywe** is 'n vrywillige instrument wat erken dat visserye, insluitende akwakultuur, 'n sleutelbron van voedsel, werksgeleentheid, ontspanning, handel en ekonomiese welsyn vir mense dwarsdeur die wêreld verskaf en dus op verantwoordelike wyse bedryf moet word. Die Kode stel beginsels en internasionale standaarde van gedrag vir verantwoordelike praktyke met die oog op die versekering van doeltreffende bewaring, bestuur en ontwikkeling van lewende akwatiese bronne met die nodige respek vir die ekostelsel en biodiversiteit. Die Kode erken die voedings-, ekonomiese, maatskaplike, omgewings- en kulturele belang van visvangbedrywe. Die Kode het ook gelei tot vier Internasionale Aksieplanne (IAPs). Hierdie IAPs is die IAP oor Kapasiteit, die IAP om Onwettige, Ongerapporteerde en Ongereguleerde (OOO) visvangbedrywighede te voorkom, af te skrik en te elimineer; die IAP om haai- byvangste te verminder en die IAP om die toevallige byvangste van seevoëls te verminder. As 'n staatsparty het Suid-Afrika onderneem en is verbind tot die toepassing van die Kode, asook die vier IAPs en om dit uit te voer, indien nodig, deur middel van 'n Nasionale Plan van Aksie. In 'n poging om die IAP te implementeer wat gerig is op die voorkoming, afskrikking en eliminering van OOO - visvangdrywighede, sal monitering en beheer oor visvangvaartuie versterk word.

Die Verenigde Nasies se Konvensie oor Seereg, 1982 ("VNKS") probeer 'n regsorde vir die wêreld se seë en oseane daarstel om kommunikasie in internasionale waters te vergemaklik. Dit bevorder ook die vreedsame gebruik van die wêreld se seë en oseane, die billike en doeltreffende gebruik van mariene hulpbronne, die bewaring van mariene lewende hulpbronne en die bestudering, beskerming en bewaring van die mariene omgewing. **Die Verenigde Nasies se Ooreenkoms oor Visvoorraad, 1995** vul die VNKS aan deur te spesifiseer hoe gedeelde visvoorraad (soos stokvis) en hoogs migrerende visvoorraad (soos tuna) ontgin en bestuur behoort te word.

Suid-Afrika is verder deel van 'n aantal **Streeksorganisasies vir Visserybestuur (SOVBs)** wat verantwoordelik is vir die bestuur en bewaring van gedeelde visvoorraad, insluitende tuna, swaardvis en Patagoniese tandvis. Hierdie organisasies sluit in die "International Commission for the Conservation of Atlantic Tunas" (ICCAT), die "International Commission for the Conservation of Southern Bluefin Tunas" (CCSBT), die "Indian Ocean Tuna Commission" (IOTC) en die "Convention for the Conservation of Antarctic

Marine Living Resources" (CCAMLR), die "South East Atlantic Fisheries Organisation" (SEAFO) en die "Southwest Indian Ocean Fisheries Commission" (SWIOFC).

As 'n lid van die Suidelike Afrikaanse Ontwikkelingsgemeenskap (SAOG) en veral as ondertekenaar van die SAOG-protokol oor visserye, is Suid-Afrika verplig om die volhoubare gebruik van gedeelde visvoorrade met die SOAG-buurlande te verseker. Hierdie gedeelde voorrade sluit stokvis, diepseevis, steurgarnale, lynvis en maasbankers in.

4.2 Die wetgewende raamwerk vir die toekenning van kommersiële visvangregte

Die transformasie van die visvangbedryf word grondwetlik en wetgewend vereis. Die vernaamste voertuig om transformasie in die Suid-Afrikaanse visvangbedryf te bevorder, is die Wet op Mariene Lewende Hulpbronne, 18 van 1998 (die "WMLH"). 'n Verdere belangrike doel van die WMLH is om voorsiening te maak vir die ordelike ontginning van lewende mariene hulpbronne en voorsiening te maak vir die uitoefening van beheer oor lewende mariene hulpbronne op 'n redelike en billike wyse tot voordeel van al die burgers van Suid-Afrika. Ingevolge artikel 2 van die WMLH, moet die Minister en enige staatsorgaan 'n aantal doelwitte en beginsels in aanmerking neem by die uitoefening van enige bevoegdheid ingevolge die Wet.

Hulle is:

- (a) *Die noodsaak om optimale benutting van ekologies volhoubare ontwikkeling van lewende mariene hulpbronne te bereik;*
- (b) *die noodsaak om lewende mariene hulpbronne vir sowel die huidige as toekomstige geslagte te bewaar;*
- (c) *die behoefte om voorkomende benaderings ten opsigte van die bestuur en ontwikkeling van lewende mariene hulpbronne te handhaaf;*
- (d) *die behoefte om lewende mariene hulpbronne te benut vir die bereiking van ekonomiese groei, menslike hulpbronontwikkeling, uitbreiding van vermoëns in visserij- en marienkultuurvertakings, werkskepping en 'n gesonde ekologiese balans, in ooreenstemming met die ontwikkelingsdoelstellings van die nasionale regering;*
- (e) *die behoefte om die ekosisteem in geheel te beskerm, met inbegrip van spesies wat nie vir ontginning bestem is nie;*
- (f) *die behoefte aan die behoud van mariene biodiversiteit;*
- (g) *die behoefte om mariene besoedeling tot 'n minimum te beperk;*
- (h) *die behoefte om, vir sover prakties haalbaar, uitgebreide en toerekenbare deelname aan die besluitnemingsprosesse waarvoor hierdie Wet voorsiening maak, te bereik;*

- (i) enige tersaaklike verpligting van die nasionale regering of die Republiek ingevolge 'n toepaslike internasionale ooreenkoms of reël van die volkereg; en
- (ii) die behoefte om die visnywerheid te herstruktureer om historiese ongelykhede aan te spreek en om gelykheid binne alle vertakings van die visnywerheid te bewerkstellig.

Ten einde die hulpbron kommersieel te ontgin, moet 'n persoon of entiteit aansoek doen en 'n reg ontvang ingevolge die WMLH. Artikel 18 bepaal as volg:

- (1) Geen persoon mag kommersiële visvangs of bestaansgrondslagvisvangs onderneem, marikultuur beoefen of 'n visverwerkingsaanleg bedryf nie, tensy 'n reg om so 'n bedrywigheid te onderneem, te beoefen of te bedryf deur die Minister aan so 'n persoon toegestaan is.

Die toekenning van regte was tot dusver die hoofmeganisme vir die bevordering van transformasie en om die ander beginsels en doelwitte uiteengesit in artikel 2 van die WMLH uit te voer. Om 'n reg uit te oefen wat ingevolge artikel 18 toegeken is moet daar 'n permit toegeken word aan 'n persoon ingevolge artikel 13 van die WMLH wat as volg bepaal:

- (1) Geen persoon mag enige reg toegestaan ingevolge artikel 18 uitoefen of enige ander bedrywigheid ingevolge hierdie Wet verrig nie tensy die Minister aan so 'n persoon 'n permit uitgereik het om daardie reg of bedrywigheid uit te oefen of te verrig.

Behalwe die WMLH, is die Algemene Regulasies, soos uitgevaardig in AK 1111 in die Staatskoerant 19205 van 2 September 1998 (soos gewysig) relevant. Hierdie regulasies bevat sekere prosedures wat verband hou met appèlle teen besluite in terme van artikels 13 en 18 van die Wet en die regulering van geslote seisoene en geslote gebiede, die gebruik van toerusting en die beperkinge op spesies. Die Regulasies handel verder oor die landing, vervoer, aflewering, ontvangs, prosessering en bemarking van vis en visprodukte, beheer en wetsnakoming, die laat van voorwerpe in die see, vishawe-regulasies en oortredings en strafbepalings.

Die WMLH en sy Regulasies is in 'n aantal hofbeslissings oor die medium-termyn regtetoekenningsproses geïnterpreteer en sommige hiervan het belangrike regsprecedente gestel. Hierdie beslissings is in aanmerking geneem met die ontwerp van die langtermyn regtetoekenningproses.

Die Wet op Nasionale Omgewingsbestuur 107 van 1998 (WNOB) bied die raamwerk vir die aanvaarding van omgewingsbestuur en -beleid. Indien die optrede van 'n staatsinstansie die omgewing aansienlik beïnvloed is die beginsels wat in artikel 2 van WNOB uiteengesit word van toepassing.

5. Departementele funksies en Delegasies

5.1 Delegasie van bevoegdhede

Die WMLH ken magte toe aan die Minister van Omgewingsake en Toerisme ("die Minister") en aan die Direkteur-Generaal ("die DG"). In die verlede het die Minister en die DG egter heelwat van hulle bevoegdhede gedelegeer aan beamptes in die Departement, insluitende die magte ingevolge artikel 13 (toekenning van permitte), artikel 18 (toekenning van kommersiële visvangregte), artikel 28 (kansellering, intrekking of opskorting van visvangregte / permitte), artikel 81 (toestaan en kansellering van vrystellings) en artikel 83 (die toelaat van eksperimentering en wetenskaplike ondersoeke).

'n Volledige stel van alle huidige delegasies is by die Departement beskikbaar of kan besigtig word by www.mcm-deat.gov.za. Die Minister is van voornemens om sy magte om visvangregte en permitte in die 19 kommersiële visvangsektore aan beamptes in die Departement te deleger. Die Algemene Beleid en vissery-spesifieke beleide is deur die Minister aangeneem ten einde die gedelegeerde owerhede te lei by die toekenning van visvangregte en permitte.

5.2 Kernfunksies van die Departement wat regtetoekenning ondersteun

(a) Navorsing in Visserye

Die Hoofdirektoraat: Navorsing, Antarktika en Eilande is verantwoordelik vir die bestuur van die uitvoering van hierdie funksie. Die hoofdoel van wetenskaplike navorsing is om die ekologiese volhoubare gebruik van visvoorrade te verseker en om mariene ekosistels te bewaar, met inbegrip van spesies wat nie vir ontginning geteiken word nie, soos robbe en seevoëls.

By uitoefening van wetenskaplike navorsing onderskryf die Departement Beginsel 15 van die Rio Deklarasie van die VN Konferensie oor Omgewing en Ontwikkeling (Rio de Janeiro, 1992) wat verklaar dat: *"Ten einde die omgewing te bewaar moet die State die voorsorgbenadering breedvoerig volgens hulle vermoë toepas. Waar daar ernstige of onomkeerbare skade dreig, sal die gebrek aan volledige wetenskaplike sekerheid nie as rede aangevoer word waarom koste-doeltreffende maatreëls uitgestel word om degradasie van die omgewing te voorkom nie"*.

Die Departement ondersteun 'n voorsorgbenadering tot alle visserye. Aangesien onsekerheid al die elemente van die visvangsisteem affekteer, is voorsorg op alle vlakke van die stelsel nodig.

Wetenskaplike navorsing is daarop gemik om die dinamika van visvoorrade te verstaan en onderrig die Totale Toelaatbare Vangs (TTV) of die Totale Ontplooide Vangspoging (TOV) of 'n kombinasie daarvan, wat bepaal word ingevolge artikel 14 van die WLMH. Die wetenskaplike werkgroep is verantwoordelik vir die vertolking van voorraadontleding, wat op die verskillende visvoorrade uitgevoer word en hierdie vertolking onderrig uiteindelik die bepaling van die TTV/TOV. Wetenskaplike navorsing onderrig verder die aanwysing van mariene beskermde gebiede, die vasstelling van bestuursgebiede vir visserye, die bepaling van geslote gebiede, geslote seisoene, verbode visvangtipe, die minimum grote van spesies, vaartuig- en toerustingbeperking en visvangmetodes, insluitende voorkomingsmaatreëls vir byvangste. Wetenskaplike navorsing word ook gedoen ten einde nuwe visserye te ontwikkel, in lyn met die Departement se *Beleid vir Nuwe Visserye*.

Wetenskaplike werkgroepe funksioneer tans ten opsigte van elke visvangsektor. Elke werkgroep bestaan uit departementele wetenskaplikes asook eskterne deskundiges van ander mariene-wetenskaplike inrigtings soos instansies vir hoër onderwys.

Die meeste sektore word wetenskaplik bestuur ingevolge 'n Operasionele Bestuursprosedure (OBP). Ander word bestuur deur middel van jaarlikse bepalings.

(b) Bestuur van Visserye

Die Hoofdirektoraat: Visserye- en Kusbestuur is hoofsaaklik verantwoordelik vir die uitvoering van twee funksies. Eerstens, om die volhoubare en billike ontwikkeling, asook die gebruik van mariene lewende hulpbronne deur die administrasie van visvangregte, permitte, vrystellings en lisensies te fasiliteer en te reguleer. Tweedens, is sy funksie om die volhoubare gebruik van Suid-Afrika se kushulpbronne te optimaliseer, deur die mens se impak (anders as kommersiële visserye) soos ontwikkeling aan die kus, bestaansvisvang, ontspanningsvisvang, mariene besoedeling en mariene ekotoerisme, op die omgewing te beheer. Die Hoofdirektoraat word bygestaan deur spesialiste in die ekonomie en bestuur van visserye, olie- en mariene besoedelingsbestuur en kussonebestuur.

(c) Vissery- en kuswetstoepassing

Die uitvoering van hierdie funksie word deur die Hoofdirekoraat: Vissery- en kuswetstoepassing bestuur. Ten einde te verseker dat gehoor gegee word aan visvangwetgewing, gebruik die Hoofdirekoraat 'n aantal maatreëls wat daarop gemik is om wetsnakoming af te dwing en aan te moedig. Daardie maatreëls sluit in:

- ❑ Moderne diepsee en kuslyn omgewingspatrolieringsvaartuie;
- ❑ Gespesialiseerde omgewingshowe;
- ❑ Waarnemerprogramme;
- ❑ Mariene beskermde gebiede;
- ❑ Vaartuigmoniteringstelsels;
- ❑ Openbare opvoedkundige programme;
- ❑ Mede-bestuur van visvoorrade;
- ❑ Indiensname van visserybeheerbeamptes verantwoordelik vir die versekering dat alle visvangste plaasvind in 'n geregleerde en regmatige wyse en dat alle landings behoorlik aangeteken word;
- ❑ Ere-beheerbeamptes vir die visvangbedryf; en
- ❑ Strategiese wetsnakomingsvennootskappe met nie-regeringsorganisasies, plaaslike regerings, bewaringsliggame en ander toepaslike staatsorgane.

(d) Toegang tot inligting

Die Departement se aangewese inligtingsbeamptes vir doeleindes van die Wet op die Bevordering van Toegang tot Inligting 2 van 2000 ("WBTI") is die Hoofdirekteur: Navorsing, Antartika en Eilande, die Hoofdirekteur: Vissery- en Kusbestuur en die Hoofdirekteur: Vissery- en Kuswetstoepassing.

Groot volumes inligting oor vorige regtetoekennings, soos beleidsdokumente, rekords van besluite, algemene gepubliseerde redes en ander rekords soos wetsnakomingsdatabasisse, TTVs en TOVs is by die Departement beskikbaar. Sommige rekords is ook beskikbaar by visvangbeheerkantore of op die Departement se webblad (www.mcm-deat.org.za). Verdere inligting oor hoe om toegang tot hierdie rekords te kry, kan op een van die volgende maniere verkry word:

- Kontak die Departement se Kliëntesorglyn by 0861 123 626; of
- Besoek die Departement se Kliëntedienssentrum by die Foretrust-gebou, 2de Vloer, Martin Hammerslag-weg, Strandgebied, Kaapstad.

Soos in die verlede, na die beoordeling van aansoeke afgehandel is en die besluite aangekondig is, sal die meeste rekords gehou deur die Departement vrywillig beskikbaar gestel word en outomaties beskikbaar wees, soos bepaal in artikel 15 van WBTI. Met ander woorde, vorms vir die toegang tot inligting hoef nie ingevul te word nie. Rekords mag inspekteer word en afskrifte sal teen die vasgestelde fooi vir reproduksie verskaf word. Oor die algemeen sal die Departement slegs verg dat die vorms vir toegang tot inligting voltooi word, en sal slegs aansoeke vir toegang tot inligting beoordeel, waar toegang tot die rekords geskep deur derde partye (soos hulle voltooië aansoekvorms en hul bylaes) aangevra word. Die benadering tot toegang tot inligting word in groter besonderhede hieronder behandel.

DEEL B: METODE EN PROSES VAN TOEKENNING

6. Toekenning van visvangregte

6.1 Die regsraad van die visvangreg

Voordat die WMLH in 1998 in werking getree het, het die Departement visvang "*kwotas*" ingevolge die Wet op Seevisserye, 12 van 1988 toegeken. Artikel 18 van die WMLH maak nou voorsiening vir die toekenning van "*visvangregte*". Die regsraad van die "*reg*" wat ingevolge die WMLH toegeken word is soortgelyk aan die "*kwota*" wat ingevolge die Wet op Seevisserye toegeken is. Die "*regte*" wat ingevolge die WMLH toegeken word is nie eiendomsregte nie en behoort verstaan te word as 'n statutêre vergunning om 'n mariene hulpbron vir 'n bepaalde tydperk te oes. Gevolglik kom kansellasië of intrekking van die reg nie neer op onteiening binne die betekenis van artikel 25 van die Grondwet of die Onteieningswet, 63 van 1975 nie. Dit is duidelik uit artikel 18(6) van die WMLH, wat bepaal dat 'n visvangreg geldig is vir die tydperk wat die Minister (of sy gedelegeerde) bepaal, waarna dit outomaties terugval na die staat en weer ingevolge die toepaslike bepalings van die WMLH toegeken mag word.

'n Visvangreg word toegeken aan 'n spesifieke persoon of entiteit en in terme van artikel 21 van die WMLH mag die reg nie oorgedra word sonder die toestemming van die Minister of sy gedelegeerde nie. By die dood, sekwestrasie of likwidasië van die regtehouer, berus die reg onderskeidelik by die eksekuteur, trustee of likwidateur en mag die reg verder ontgin word vir die tydperk toegelaat deur die toepaslike wetlike bepalings. Enige oordrag van die visvangreg na 'n derde party vereis egter goedkeuring.

6.2 Kernoorwegings vir toekenning en bestuur

Hierdie Algemene Beleid asook die Vissery-spesifieke beleidsdokumente, word gebaseer op vyf kernbeginsels wat die toekenning en bestuur van kommersiële visvangregte lei. Hierdie vyf beginsels komplimenteer en gee uitvoering aan die doelwitte gelys in artikel 2 van die WMLH. Hulle is:

- (a) **Transformasie:** Transformasie en die noodsaaklikheid om gelykheid binne alle sektore van die visvangbedryf te bewerkstellig.
- (b) **Biologiese oorwegings:** Die impak op die teikenspesies moet in aanmerking geneem word. Dit word hoofsaaklik gedoen deur 'n Totale Toelaatbare Vangs (TTV) of 'n Totale Ontplooide Vangspoging (TOV) of albei vas te stel.
- (c) **Ekologiese oorwegings:** Die impak op die mariene ekosisteem waarbinne die teikenspesies voorkom moet in aanmerking geneem word.
- (d) **Nywerheids- en sosio-ekonomiese en kommersiële oorwegings:** Sover dit prakties moontlik en relevant is, word die sosio-ekonomiese uitwerking van toekennings op regtehouers, werkers en verbruikers in ag geneem, veral daardie individue en gemeenskappe wat van die bron afhanklik is. Nywerheids en kommersiële oorwegings sluit in die aard en die waarde van investerings in vaste bates, bemaking en prosesserings- en visvangkapasiteit.
- (e) **Prestasie of Potensiaal om te presteer:** Waar moontlik en relevant, word finansiële en visvangprestasie, waardetoevoeging, ondernemingsontwikkeling en werkskepping, asook nakoming van die WLMH, die regulasies permitvoorwaardes, en ander regsvereistes in ag geneem.

6.3 Die toekenningsproses

(a) Openbare deelname aan beleidsformulering

Die Minister van Omgewingsake en Toerisme het 6 Izimbizos in kugemeenskappe gehou gedurende die tweede helfte van 2004. Hierdie vergaderings was die informele begin van 'n proses om die publiek te raadpleeg oor die toekenning van langtermyn visvangregte.

Die formele proses van openbare konsultasie het bestaan uit 'n kennisgewing-en-kommentaar proses met betrekking tot beide die Algemene beleid asook die Visserij-spesifieke beleidstukke. 'n Volle verslag aangaande die publieke deelname proses sal beskikbaar gestel word by www.mcm-deat.gov.za. Kortliks, aan die begin van Maart 2005, het die Departement 'n konsepweergawe van hierdie Algemene beleid asook 'n konsep Visserij-spesifieke beleid vir elke sektor gepubliseer. Geïnteresseerde en belanghebbende partye was uitgenooi om kommentaar te lewer op die beleidstukke. Belanghebbendes in die onderskeie visserij kom egter van uiteenlopende agtergronde en dit was dus onvanpas om hulle almal op dieselfde wyse te betrek. Buiten die algemene kennisgewing-en-kommentaar prosedure, en ten einde partye in die tradisionele visserij te help om kommentaar te lewer, is 'n reeks openbare vergaderings gehou waar die voorgestelde beleide bespreek is, vrae beantwoord is en sienswyses van die gehoor genotuleer is. Geaffekteerde en belanghebbende partye sal ook die geleentheid gegee word om oor voorgestelde aansoekvorms kommentaar te lewer.

(b) Toekenningsproses per Groep bepaal

Vir die doeleindes van die langtermyn regtetoekenningsproses, word die 19 visvangsektore in vier groepe saamgroepeer vir die beoordeling van aansoeke vir visvangregte. Die doel van die saamgroepering van die visserij is administratief, prosedureel en, tot 'n mindere mate, substantief. Verskillende kriteria en gewigte mag egter aangewend word in sektore wat binne dieselfde groep val. Die Groepe is:

Groep A

- ☐ Diepsee stokvistreil
- ☐ Aanlandige Stokvis kustreil
- ☐ Maasbankers
- ☐ Klein Pelagiese
- ☐ Patagoniese Tandvis
- ☐ Suidkus-kreef
- ☐ KwaZulu-Natal steurgarnaal treil
- ☐ Suidkuskreef;
- ☐ KwaZulu-Natal Prawn Trawl.

Groep C

- ☐ Stokvis handlyn
- ☐ Weskus-kreef (kuslyn)

Groep B

- ☐ Stokvis langlyn
- ☐ Weskus-kreef (aflandig)
- ☐ Inkvis
- ☐ Seewier
- ☐ Tuna Paal
- ☐ Bodem- haaie

Groep D

- ☐ Netvis (Treknet, Kiefnet en Strandseënnnet)
- ☐ KwaZulu-Natal Strandseënnnet
- ☐ Oesters en
- ☐ Witmossels

(c) Kommunikasie

Die Minister, beamptes van die Departement en die gedelegeerde owerheid sal nie met individuele aansoekers kommunikeer oor hulle aansoeke gedurende die aansoekperiode, anders as op die wyse beskryf in hierdie Algemene Beleid nie. Aansoekers of hulle verteenwoordigers mag ook nie met die Minister, die gedelegeerde owerheid of beamptes van die Departement kommunikeer nie, behalwe op die wyse uiteengesit in hierdie Algemene Beleid nie. Daar mag geensins staatgemaak word op enige inligting wat gegee is of verkry is op enige ander wyse nie. Pogings om die besluit van die gedelegeerde owerheid of die appélowerheid rakende die toekenning van 'n reg of kwantum of poging te beïnvloed sal 'n onafhanklike basis wees vir die afwysing van 'n aansoek of 'n appél.

Groepe A en B

Tensy anders bepaal in hierdie Algemene beleid, mag kommunikasie tussen die Minister, die gedelegeerde owerheid en die Departement aan die een kant, en aansoekers aan die ander, slegs plaasvind deur middel van 3 meganismes in die **Groepe A en B** sektore:

- Elektroniese Media: Beleidsdokumente en ander materiaal sal gepubliseer word op die webruimte, www.mcm-deat.gov.za. Elektroniese-pos verspreidingslyste sal geskep word ten einde direk met aansoekers te kommunikeer. Gedurende die aansoekperiode sal navrae en vrae ter opheldering deur middel van e-pos beantwoord word. Daar sal geen kommunikasie op 'n private individuele basis plaasvind nie. Alle navrae en vrae wat ontvang is, en die reaksie daarop, sal saamgestel word en dan gelyktydig aan alle geregistreerde aansoekers gestuur word. Die inligting sal ook op die webruimte beskikbaar wees.
- Staatskoerant: Alle beleide, uitnodigings om aansoek te doen en algemene kennisgewings sal in die staatskoerant gepubliseer word.
- Erkende Bedryfsliggame en Belangegroepe: Beleide en ander materiaal sal sirkuleer word deur erkende bedryfsliggame en belangegroepe.

Groepe C en D

Tensy anders bepaal in hierdie Algemene beleid, mag kommunikasie tussen die Minister, die gedelegeerde owerheid en die Departement aan die een kant, en aansoekers aan die ander, slegs plaasvind deur middel van 6 meganismes in die **Groepe C en D** sektore:

- Elektroniese media: Beleide en ander materiaal sal publiseer word op die webruimte, www.mcm-deat.gov.za.
- Staatskoerant: Alle beleide, uitnodigings om aansoek te doen en algemene kennisgewings sal in die staatskoerant publiseer word.
- Erkende Bedryfsliggame en Belangegroepe: Beleide en ander materiaal sal sirkuleer word deur erkende bedryfsliggame en belangegroepe.
- Inbelsentrum: Die Departement het 'n inbelsentrum geskep met beamptes om navrae te beantwoord oor die regtetoekennings.
- Klientedienssentrum: Die Departement het 'n klientedienssentrum in Kaapstad gevestig.
- Departementele beamptes sal bystand verleen aan aansoekers by die verspreidings- en indieningspunte en sal vergaderings hou by verskeie geadverteerde lokale langs die kus, waar die aansoekproses verduidelik sal word.

(d) Taal

In **Groep A** sal die beleide en verduidelikende notas beskikbaar wees in Engels en Afrikaans.

In **Groepe B, C en D** sal die beleide en verduidelikende notas beskikbaar wees in Engels, Afrikaans, isiXhosa en isiZulu.

In geval van konflik, sal die Engelse teks van 'n beleid of verduidelikende nota voorrang geniet.

(e) Uitnodiging om vir regte aansoek te doen

Uitnodigings om vir kommersiële regte aansoek te doen sal in die Staatskoerant gepubliseer word. Die Departement sal ook verseker dat kennisgewings geplaas word op die Departement se webruimte en in streekskoerante.

Uitnodigings geplaas in die Staatskoerant sal uit die volgende dele bestaan:

- 'n Kort uitnodiging om vir die betrokke visvangreg aansoek te doen binne 'n spesifieke tydperk.
- Die Visserij-spesifieke beleid.
- 'n Voorbeeld van die toepaslike aansoekvorm, met 'n stel instruksies, verduidelikende notas, en die notas tot die bylaes van dokumente wat ingedien moet word.

Die uitnodiging sal nie hierdie Algemene beleid ook insluit nie. Aansoekers sal egter met 'n afskrif van hierdie beleid voorsien word op versoek. Uitnodigings sal op 'n groepsbasis versprei word.

(f) Aansoekvorms

Elke vissery sal 'n aparte aansoekvorm hê wat ontwerp is om die inligting in te win wat relevant geag word ten einde aansoeke vir die betrokke visvangreg effektief te beoordeel. Aansoekvorms sal ontwerp word met inagneming van die betrokke vissery-groep en die vissery.

Voorgestelde aansoekvorms sal publiseer word vir kommentaar op die webruimte www.mcm-deat.gov.za, as deel van die publieke deelname proses.

(g) Verspreiding van aansoekvorms en betaling van aansoekfooie

Groep A

In **Groep A** sal daar van aansoekers verwag word om die Departement se webruimte te besoek en 'n kort stel biografiese inligting, soos naam, maatskappy registrasienommer, kontakbesonderhede en so meer in te dien. By voltooiing hiervan sal die aansoeker ingelig word oor hoe om die aansoekfooie te betaal.

Daar sal van aansoekers verwag word om aansoekfooie te betaal voordat 'n aansoekvorm uitgereik sal word. Aansoekfooie moet direk in die aangewese bankrekening van Regte Verifikasie Eenheid rekening betaal word. By ontvangs van die bewys van betaling sal die aansoeker toegelaat word om 'n aansoekvorm in kompaktskyf ("CD") formaat by die hoofkantoor van die Regte Verifikasie Eenheid af te haal tesame met die nodige sagteware om die vorm te benut.

Groep B

Harde-kopie aansoekvorms sal versprei word by 'n voorgeskrewe lokaal in Kaapstad. Daar sal van aansoekers vereis word om die voorgeskrewe fooi in die aangewese bankrekening van die Regte Verifikasie Eenheid te deponeer en om bewys van betaling ('n oorspronklike depositostrokke of bevestiging van elektroniese betaling) by die verspreidingslokaal te lewer voor die aansoekvorm afgehaal word. Daar sal van aansoekers verwag word om 'n kort stel biografiese inligting, soos naam, maatskappy registrasienommer, kontakbesonderhede en so meer, by die verspreidingspunt te verskaf. Na afhandeling hiervan en teen bewys

van die deponering van die aansoekfooi, sal 'n genommerde harde-kopie aansoekvorm aan aansoekers voorsien word.

Groepe C en D

In **Groepe C en D** sal aansoekvorms by verskeie geadverteerde rstrekslokale langs die kus versprei word. Daar sal van aansoekers vereis word om die voorgeskrewe aansoekfooi in die aangewese bankrekening van die Regte Verifikasie Eenheid se rekening te deponeer en om bewys van betaling ('n oorspronklike depositostrokke of bevestiging van elektroniese betaling) by die verspreidingslokaal te lewer voor die aansoekvorm afgehaal word. Daar sal van aansoekers verwag word om 'n kort stel biografiese inligting, soos naam, identiteitsnommer, beslote korporasienommer (indien van toepassing), kontakbesonderhede en so meer, by die verspreidingspunt te verskaf. Na afhandeling hiervan en teen bewys van die deponering van die aansoekfooi, sal 'n harde-kopie aansoekvorm aan aansoekers voorsien word.

(h) Aansoekfooi

Die Minister, in oorleg met die Minister van Finansies, is verantwoordelik vir die vasstelling van die aansoekfooi. Die beleid rakende die aansoekfooi sal vasgestel word na 'n afsonderlike publieke deelname proses.

(i) Verifikasie deur Ouditeurs

Daar sal van aansoekers in **Groep A** vereis word om van die dienste van onafhanklike ouditeurs te gebruik ten einde die inligting vervat in sekere dele van hulle aansoekvorms te verifieer. Die relevante professionele liggaam sal prosedures vir die verifikasieproses vasstel. Hierdie is nie van toepassing op **Groepe B, C en D** nie.

(j) Ontvangs van aansoekvorms

In **Groep A** sal daar van aansoekers vereis word om die voltooië CD, gedrukte weergawes, bylaes en kopieë by 'n aangewese lokaal en gedurende 'n voorgeskrewe periode, per hand in Kaapstad in te dien.

In **Groep B** sal daar van aansoekers vereis word om die voltooië aansoekvorms, bylaes en kopieë by 'n aangewese lokaal en gedurende 'n voorgeskrewe periode, per hand in Kaapstad in te dien.

In **Groep C** sal daar van aansoekers vereis word om die voltooid aansoekvorms, bylaes en kopieë by 'n vooraf geadverteerde regionale ontvangspunte langs die kuslyn gedurende 'n voorgeskrewe periode, in te dien.

In **Groep D** sal daar van aansoekers vereis word om die voltooid aansoekvorms, bylaes en kopieë by 'n vooraf geadverteerde regionale ontvangspunte langs die kuslyn gedurende 'n voorgeskrewe periode, in te dien. Die ontvangspunte sal dieselfde wees as die verspreidingspunte en verspreiding en ontvangs sal by dieselfde lokaal en gedurende dieselfde periode plaasvind.

(k) Afskrifte

Groep A

Daar sal van aansoekers in **Groep A** verwag word om hul aansoekvorm elektronies in te vul en dit te stoor op die CD's wat verskaf word vir hierdie doel. Daar sal van aansoekers vereis word om 'n harde-kopie weergawe van die voltooid aansoekvorm uit te druk. Die gedrukte weergawe moet onderteken word en die deklarasie moet bevestig word voor 'n kommisaris van ede. Hierdie weergawe moet dan fotokopieer word. In totaal, sal daar van aansoekers verwag word om per hand, by die voorgeskrewe lokaal en tydspanne, in te dien:

- Een afskrif van die elektroniese weergawe van die aansoekvorm, gestoor op die CD verskaf vir hierdie doel;
- 'n Uitgedrukte weergawe van die elektroniese weergawe, behoorlik onderteken en bevestig voor 'n kommisaris van ede, met die nodige skedules in die vorm van bylaes; en
- 'n Afskrif van die getekende en bevestigde weergawe van die aansoek, met bylaes.

Groepe B, C en D

Daar sal van die aansoeker of sy gemagtigde verteenwoordiger vereis word om, na voltooiing van die aansoekvorm die deklarasie te onderteken en te bevestig voor 'n kommisaris van ede. Die aansoekvorm en bylaes moet gekopieer word en beide die oorspronklike asook die afskrif moet ingedien word.

(l) Ontwerp van kriteria en lading

Inligting wat aansoekers indien sal op 'n databasis ingevoer word. Die beleidsdokumente, die databasis en die inligting wat by wyse van bylaes ingedien is, sal gebruik word vir die ontwikkeling van gedetailleerde kriteria en

gewigte vir elke sektor vir doeleindes van die evaluering van die aansoeke en daarna die toekenning van kwantum of poging.

(m) Inligting wat oorweeg sal word

Die volgende benadering sal deur die gedelegeerde owerheid en die appèlowerheid gevolg word oor inligting wat in aanmerking geneem word by evaluering van aansoeke:

(i) Gedeeltes van die aansoekvorm nie voltooi

Tensy anders bepaal, indien 'n gedeelte van die aansoekvorm nie voltooi is nie, sal veronderstel word dat daardie gedeelte van die vorm nie op die aansoeker van toepassing is nie. Indien die afdeling positiewe punte vir die antwoord het, sal geen punte toegeken word nie.

'n Spesifieke teken (die "waarskuwingstekens") sal gebruik word om aan te dui waar, indien onvoltooid gelaat, 'n antwoord negatief vir die aansoeker aanvaar sal word. Byvoorbeeld, indien oopgelaat, sal daar aanvaar word dat die aansoeker "ja" antwoord op 'n vraag soos: "Is u ooit skuldig bevind aan 'n oortreding van die WLMH?" Die waarskuwingstekens kan ook gebruik word om aan te dui dat indien die antwoord op 'n positief-gestelde of 'n oop vraag onvoltooid gelaat word, veronderstel sal word dat die aansoeker die vraag negatief beantwoord het. Byvoorbeeld, indien onvoltooid gelaat, word veronderstel dat die aansoeker "nee" antwoord het op 'n vraag soos "Was u deel van die bemanning van 'n vaartuig wat in 'n beperkte of 'n vol kommersiële visvangbedryf gewerk het?"

(ii) Laat inligting

Inligting wat na die sluitingsdag ingedien word sal nie in aanmerking geneem word nie, tensy aangevra deur die Regte Verifikasie Eenheid, die gedelegeerde owerheid of die Minister of as deel van die regtetoekenningsproses of die appel proses. Die benadering tot die indiening van addisionele inligting op appél word hieronder beskryf.

(iii) Inligting van eksterne bronne

Nadelige inligting oor 'n aansoek wat van eksterne bronne ontvang word, sal nie deur die Minister of gedelegeerde owerheid oorweeg word voordat die aansoeker die geleentheid gegee is om verhoër oor die inligting te maak nie.

(iv) **Gebruik van departementele databasis**

Die Minister of gedelegeerde owerheid mag inligting op die Departement se databasisse gebruik gedurende die proses van langtermyn regtetoekenning, maar sal dit doen slegs tot die mate waarin aansoekers die geleentheid gegee is om vertoë te maak oor die korrektheid van die inligting

(v) **Indiening van vals inligting of dokumente en nie-openbaarmaking**

Daar sal van aansoekers of gemagtigde verteenwoordigers verwag word om in die teenwoordigheid van 'n kommissaris van ede te verklaar, onder meer, dat hulle nie vals inligting of vals dokumente ingedien het nie en dat hulle nie versuim het om wesentlike inligting te verskaf nie. Die indiening van vals inligting of vals dokumente of die nie-openbaarmaking van wesentlike inligting sal 'n onafhanklike rede wees om 'n aansoek te weier.

Daar sal veronderstel word dat 'n aansoeker vals inligting verstrek het, indien daar 'n wesentlike verskil is tussen die inligting wat die aansoeker verstrek en die inligting op die databasis van die Departement en waar albei weergawes nie korrek kan wees nie. Verder sal veronderstel word dat 'n aansoeker vals inligting verstrek het wanneer daar 'n wesentlike verskil is tussen die inligting wat die aansoeker in die oorspronklike aansoek verstrek en die inligting wat die aansoeker verskaf op appèl en waar albei weergawes nie korrek kan wees nie.

Verder behels die maak van 'n valse stelling in 'n verklaring bevestig voor 'n Kommissaris van Ede, wetend dat die stelling vals is, 'n kriminele oortreding.

(vi) **Afskrifte van dokumente**

Daar sal nie van aansoekers vereis word om enige afskrif te laat sertifiseer as 'n ware afskrif van die oorspronklike nie, maar daar sal aanvaar word dat enige afskrif 'n presiese weergawe van die oorspronklike is.

(m) Aanvra van verdere inligting, ondersoek en oorlegpleging

Die Minister of gedelegeerde owerheid mag aansoekers nooi om mondelinge voorleggings te doen of om verdere geskrewe inligting te verskaf indien daar onsekerheid bestaan oor 'n wesentlike aspek in 'n aansienlike aantal aansoeke. Wanneer mondelinge onderhoude gehou word, sal regsverteenwoordigers toegelaat word om die Minister of gedelegeerde owerheid toe te spreek.

Die Minister of die gedelegeerde owerheid mag die Regte Verifikasie-eenheid versoek om enige aangeleentheid te ondersoek insluitend die korrektheid van enige inligting wat verskaf is. Daar sal van aansoekers verwag word om met die ondersoekbeamptes saam te werk deur betyds antwoorde op skriftelike versoeke vir inligting or verduidelikings in te dien, deur vergaderings met ondersoekbeamptes by te woon en deur vrae op bevredigende wyse by sulke vergaderings te beantwoord, en waar nodig, deur aan ondersoekbeamptes toegang tot persele, vaartuie en dokumente, te verleen. Die versuim om saam te werk sal 'n aparte grond daarstel om 'n aansoek te weier.

(o) Ondersteuning vir gedelegeerde owerhede

Die gedelegeerde owerheid verantwoordelik vir die besluite oor die aansoeke in 'n sektor mag bygestaan word deur 'n "Advieskomitee", asook deur professionele projekbestuurders, konsultante en regspraktisyns. Die rol van die Advieskomitees sal vasgestel word deur die gedelegeerde owerheid. Die Advieskomitee mag gevra word om bystand te verleen by die beoordeling van aansoeke, onder die toesig van, en in ooreenstemming met die kriteria en gewigte vasgestel deur die gedelegeerde owerheid.

(p) Voorlopige lyste

Die gedelegeerde owerheid mag voorlopige lyste vir kommentaar oor enige aspek in enige sektor uitreik. Die gedelegeerde owerheid mag byvoorbeeld in **Groepe C en D** kommentaar aanvra oor of die voorlopige suksesvolle aansoekers afhanklik is van die bron en op die sterkte van antwoorde ontvang 'n finale besluit neem.

Die gedelegeerde owerhede vir **Groepe A en B** visserye kan voorleggings uitnoui rakende die beoordeling van die aansoeke voordat 'n finale besluit geneem word. In hierdie sektore, mag die gedelegeerde owerhede oorleg pleeg met geïnterreseerde en belanghebbende partye oor die metode vir die toekenning van kwantum of vangspoging voordat hierdie besluite geneem word.

(q) Kennisgewing van besluite en die redes

Nadat die gedelegeerde owerheid besluite geneem het rakende die toekenning van regte en kwantum of vangspoging sal die Departement die aansoeker skriftelik kennis gee van die besluit wat geneem is oor die aansoek. Verder sal die Departement die resultate elektronies deur erkende bedryfsliggame en belangegroepe publiseer.

Onsuksesvolle aansoekers

Onsuksesvolle aansoekers sal die volgende ontvang, tesame met die brief waarin hulle oor die besluit oor die aansoek meegedeel word:

- ❑ Die Algemeen Gepubliseerde Redes waarin die kriteria, die besluitnemingsproses en die metode in verband met besluite oor kwantum of vangspoging opgeteken word;
- ❑ 'n Spesifieke rede waarom die aansoek onsuksesvol was;
- ❑ 'n Appélvorm wat aansoekers moet indien saam met die appél;
- ❑ 'n Kennisgewing van die sluitingsdatum, besonderhede van die appélowerheid en ander formele vereistes vir die indiening van appéle; en
- ❑ 'n Afskrif van enige finale telkaart wat gebruik is om die aansoek te evalueer.

Verder sal die volgende dokumente outomaties beskikbaar wees vir insae of te koop teen betaling van die voorgeskrewe fooi :

- ❑ Die Spreiblad van Besluite wat 'n opsomming van die beoordeling van al die aansoeke in 'n sektor bevat;
- ❑ Finale telkaarte van ander aansoekers; en
- ❑ Die besluitnemingslys van die gedelegeerde owerheid of die Minister.

Die spesifieke rede vervat in die kennisgewingsbrief aan onsuksesvolle aansoekers, saam met die Algemene Gepubliseerde Redes, die finale telkaart en inligting wat outomaties beskikbaar is, behels die redes vir die besluit om 'n aansoek te weier.

Suksesvolle aansoekers

Suksesvolle aansoekers sal die volgende ontvang saam met die brief wat hulle inlig oor die besluit oor hulle aansoek:

- Die Algemene Gepubliseerde Redes waarin die kriteria, die besluitnemingsproses en die metodologie wat betrekking het op besluite oor kwantum en vangspoging opgeteken sal word;
- 'n Appélvorm, wat aansoekers moet indien te same met 'n appél oor kwantum of poging;

- 'n Kennisgewing oor die sluitingsdatum, die besonderhede van die appélowerheid en ander formele vereistes vir die indiening van appéle;
- 'n Afskrif van enige finale telkaart wat gebruik is om die aansoek te evalueer; en
- 'n Stel generiese permitvoorwaardes wat van toepassing is op die spesifieke vissery;

Verder, sal die volgende dokumente outomaties beskikbaar wees vir insae of te koop teen betaling van die voorgeskrewe fooi :

- Die Spreiblad van Besluite wat 'n opsomming van die beoordeling van al die aansoeke in 'n sektor bevat;
- Finale telkaarte van ander aansoekers; en
- Die besluitnemingslys van die gedelegeerde owerheid of die Minister.

Die Algemene Gepubliseerde Redes, die finale telkaart en die inligting wat outomaties beskikbaar is, behels die redes vir die besluit om 'n kommersiële visvangreg toe te staan en die toekenning van kwantum en vangspoging.

(r) Appéle

Elke aansoeker het die reg om appél aan te teken teen die besluite van die gedelegeerde owerheid. Die appél kan aangeteken word teen die besluit om nie 'n reg toe te ken nie of teen die toekenning van kwantum en vangspoging. Besonderhede oor die indiening van appéle sal in die kennisgewingbrief vervat wees.

Die appélowerheid sal die feite beoordeel soos hulle was op die sluitingsdatum vir die indiening van aansoeke en sal nie feite in aanmerking neem wat daarna ontstaan het nie. Byvoorbeeld, as 'n aansoeker 'n belegging in 'n vaartuig gemaak het na die sluitingsdatum vir die indiening van aansoeke sal hierdie feit nie in ag geneem word wanneer die appél oorweeg word nie.

Nadat 'n besluit geneem is, sal die aansoeker skriftelik in kennis gestel word van die appél owerheid se besluit.

(s) Toegang tot inligting

Die volgende rekords sal outomaties beskikbaar wees vir insae of te koop teen die voorgeskrewe fooi nadat die resultate aangekondig is:

- ☐ Enige telkaart, spreiblad of ander dokument wat deur die gedelegeerde owerheid, die Minister, of hulle assistente by die beoordeling van die aansoeke gebruik is;
- ☐ Op versoek van die aansoeker of sy gemagtigde verteenwoordiger, die aansoeker se eie aansoek of appél dokumentasie.

Versoeke vir toegang tot die volgende rekords sal hanteer word volgens die Wet op die Bevordering van Toegang tot Inligting 2 van 2000:

- ☐ Die aansoekvorm van 'n ander aansoeker;
- ☐ Die bylaes ingedien saam met die aansoek van 'n ander aansoeker;
- ☐ Appéldokumentasie ingedien deur 'n ander aansoeker.

Met betrekking tot die toegang tot hierdie rekords sal die Departement se inligtingsbeampte (die Hoofdirekteur: Bron en Kusbestuur) die prosedures en bepalings van die WBTI toepas. Ten einde te help met die administrasie van toegang tot inligting aansoeke, sal daar van aansoekers verwag word om sekere dokumente waartoe die inligtingsbeampte toegang kan weier, soos byvoorbeeld visvangplanne, bemarkingsplanne en finansiële state, in 'n aparte lêer in te dien.

6.4 Besluitneming

Alle besluite sal gebaseer word op toepaslike wette en gelei word deur die toepaslike beleidsdokumente. Die beleidsdokumente en die databasis wat opgestel is na die aansoeke ontvang is, sal gebruik word om meer verfynde kriteria en gewigte vir die evaluering van die aansoeke te ontwikkel. Hierdie kriteria word ontwikkel met verwysing na data ontvang na die sluitingsdatum en word gevolglik nie voor die toekenningsproses vrygestel nie.

(a) Kriteria wat gebruik word om besluite te neem oor die toekenning van regte

Die Departement verwag 'n groot aantal aansoeke vir langtermyn regte en voorsien dat, gegewe die huidige beperkings op vangste of visvangpoging in al die visserye, nie alle aansoekers regte sal ontvang nie. Party aansoekers sal afgewys word omdat hulle nie aan die minimum vereistes voldoen nie. Die res van die

aansoekers sal in 'n ranglys ingedeel word volgens 'n stel objektiewe kriteria ten einde die beste aansoekers te identifiseer in terme van die beleidsdokumente en die gelaaië kriteria. Die proses is mededingend en die doel is om die beste aansoekers te identifiseer.

Vier tipes kriteria sal gebruik word om die aansoeke te evalueer.

Aansoeke sal nagegaan word volgens 'n stel "*uitsluitingkriteria*", en daarna in 'n ranglys ingedeel word volgens 'n stel "*gelaaië balanseringskriteria*". Verder mag die gedelegeerde owerheid in sommige sektore een of meer van 'n aantal "*valbylfaktore*" in aanmerking neem ten einde 'n besluit te neem, indien daar te veel aansoekers met dieselfde punte is. 'n Proporsie van die TTV of TOV sal dan toegeken word aan elke suksesvolle aansoeker ingevolge 'n stel "*kwantumkriteria*".

(i) Uitsluitingkriteria

Drie tipes uitsluitingskriteria sal ingespan word.

Ten eerste sal 'n aansoek nagegaan word om vas te stel of dit behoorlik ingedien is. 'n Aansoek is onbehoorlik ingedien wanneer dit laat ontvang is; indien die aansoeker nie die aansoekgeld betaal het nie, of te min of laat betaal het; of indien dit ingedien is op 'n wyse teenstrydig met die instruksies, soos per faks of op 'n ander vorm as die amptelike voorgeskrewe vorm. Die gedelegeerde owerheid en Minister het geen diskresie om nie-voldoening aan die indieningsvereistes te verskoon nie.

Tweedens sal die aansoek nagegaan word om te bepaal of dit lei aan 'n wesentlike tekortkoming. 'n Aansoek lei aan 'n wesentlike tekortkoming, indien die verklaring nie deur die aansoeker onderteken is nie; of indien die aansoeker se verklaring nie deur 'n kommissaris van ede beëdig is nie; of indien meer as een aansoek van die aansoeker ontvang is vir 'n visvangreg in dieselfde sektor; of indien die aansoeker vals inligting of vals dokumente verskaf het of versuim het om wesentlike inligting te openbaar, of probeer het om die Minister of gedelegeerde owerheid gedurende die aansoekperiode te beïnvloed op 'n wyse waarvoor nie voorsiening gemaak word in hierdie Algemene beleid nie. In Groep A, word daar verwag dat onafhanklike ouditeure sekere antwoorde van die aansoeker verifieer en om 'n verslag voor te berei en te onderteken in hierdie verband. Indien die aansoeker staatmaak op inligting voorsien deur 'n houermaatskappy of ander lede van 'n groep van maatskappy of gesamentlike onderneming, word daar van die gemagtigde verteenwoordigers van hierdie entiteite verwag om 'n verklaring te teken en te laat beëdig. Die aansoek sal ook lei aan 'n wesentlike tekortkoming indien die verslag van die onafhanklike ouditeur nie voorsien word en onderteken is nie (indien van toepassing) of indien die gemagtigde verteenwoordiger van die houermaatskappy, lid van 'n groep van

maatskappy of gesamentlike ondernemingsvennoot se verklaring nie geteken en beëdig is nie. Die gedelegeerde owerheid en Minister het geen diskresie om nie-voldoening aan die vereistes oor wesentlike tekortkominge te verskoon nie.

Derdens, sal 'n aansoek nagegaan word om vas te stel of die aansoekers aan die minimum noodsaaklike vereistes voldoen om deel te neem in die sektor. Die gedelegeerde owerheid en Minister het geen diskresie om nie-nakoming van 'n noodsaaklike vereiste vir deelname aan die sektor te verskoon nie. Die noodsaaklike vereistes verskil van sektor tot sektor. Byvoorbeeld in die vorige toekenningsproses vir perlemoen-duikers, moes aansoekers aantoon, onder andere, dat die aansoeker 'n gekwalifiseerde duiker is en gesertifiseer is as Klas 1 (met oppervlakte-voorsiening), II of III Kommersiële Duiker ingevolge regulasie 14 van die regulasies uitgevaardig ingevolge die Wet op Beroepsgesondheid en Veiligheid, 1993 (AK Regulasie 10 van 11 Januarie 2002).

(ii) Balanseringskriteria: nuwe inkomelinge en bestaande regtehouers

Aansoeke wat behoorlik ingedien is, nie lei aan wesentlike tekortkominge nie en aan die noodsaaklike vereistes voldoen sal ingevolge 'n stel balanseringskriteria gemeet word ("*die balanseringskriteria*"). Die balanseringskriteria sal gelaai word vir doeleindes van die samestelling van 'n ranglys van aansoekers. Sommige van die kriteria, soos transformasie, sal oor al die sektore van toepassing wees, terwyl ander sektor-spesifiek sal wees.

Die aansoeke van medium termyn regtehouers sal nie beoordeel word in terme van dieselfde kriteria en gewigte as potensiële nuwe inkomelinge en aparte rangordes sal opgestel word. Afsnypunte sal dan apart vasgestel word vir medium termyn regtehouers en potensiële nuwe inkomelinge. Alle aansoekers met punte wat gelyk staan aan of meer is as die afsnypunt sal regte ontvang.

(iii) Valbyl faktore

Indien daar te veel aansoekers met dieselfde punte is, mag die besluitnemer valbyl kriteria in werking stel ten einde tussen die aansoekers met dieselfde punte te kies.

(b) Kriteria vir die toekenning van kwantum of poging

Daar word twee aparte besluite geneem. Nadat die besluit geneem is wat die suksesvolle aansoekers identifiseer sal die gedelegeerde owerheid kwantum toeken aan elke suksesvolle aansoeker volgens die benadering wat in paragraaf 7.2 hieronder beskryf word.

DEEL C: DWARSSNYDENDE BELEIDSOORWEGINGS VIR DIE TOEKENNING VAN REGTE EN KWANTUM**7. Beleidsoorwegings**

Hierdie Algemene Beleid moet saamgelees word met die Vissery-spesifieke beleidsdokumente wat vir elke vissery aangeneem is. Laasgenoemde geniet voorkeur oor eersgenoemde, indien dit meer spesifiek is met betrekking tot 'n sekere sektor.

Die beleidsoorwegings hieronder uiteengesit, tesame met die databasis wat saamgestel word nadat aansoeke ontvang is, sal die gedelegeerde owerheid lei in die ontwikkeling van gedetailleerde uitsluitingskriteria, die balanseringskriteria vir medium termyn regtehouers en nuwe inkomelinge en die valbyl faktore. Die vissery-spesifieke beleid sal verdere leiding in hierdie verband verskaf.

Hierdie algemene beleid en die vissery-spesifieke beleide lê nie rigiede en onwrikbare reëls neer nie en dek nie elke aspek en oorweging wat in ag geneem sal word in die bepaling en toepassing van kriteria vir balansering, valbyl, kwantum en vangspoging nie. Gedelegeerde owerhede sal gemagtig word om kriteria te ontwikkel en te verfyn solank dit afgelei kan word en konsekwent is met die toepaslike wette, hierdie Algemene beleid asook die toepaslike vissery-spesifieke beleid.

Tensy die teendeel aangedui word in die aansoekvorm sal slegs inligting wat betrekking het op die aansoeker aangevra word. Met betrekking tot transformasie, werkskepping en investering en ander aspekte, mag aansoekers wat deel vorm van 'n groep maatskappye of gesamentlike ondernemings gevra word om inligting rakende die groep of gesamentlike onderneming in te dien (en nie slegs inligting oor die aansoeker nie).

7.1 Tydsduur van regte

Langtermyn visvangregte vir 'n periode van tot 15 jaar sal in al die kommersiële visserye toegeken word, behalwe in die Oester- en Witmosselvisserye, wat in 'n vroeë stadium van ontwikkeling is.

Die tydsduur van die regte sal bepaal word deur, onder andere, die vlak van transformasie in die vissery, die huidige kennis oor die biologiese status van die teikenspesies; die kapitaalintensiteit van die vissery en die behoefte om verdere belegging en ekonomiese groei aan te moedig, en die prestering van die vissery.

7.2 Vorm van die regtehouer

Artikel 18 van die WLMH bepaal dat slegs Suid-Afrikaanse persone visvangregte mag hou. Artikel 1 van die WLMH omskryf 'n Suid-Afrikaanse persoon as 'n Suid-Afrikaanse burger of maatskappy, beslote korporasie of trust. Visvangregte mag dus nie aan vennootskappe, assosiasies, gesamentlike ondernemings, gemeenskaps-assosiasies, of koöperasies toegeken word nie.

In terme van hierdie beleid, sal kommersiële visvangregte slegs aan individue (natuurlike persone) in die Groep C en Groep D visserye toegeken word, behalwe in die stokvis handlyn- en KZN Strandseënnetsektore, waar beslote korporasies ook sal kwalifiseer. Individue wat lede was van beslote korporasies, aandeelhouders in maatskappye en begunstigdes van trusts, toe daar aan hierdie entiteite mediumtermynregte toegeken is gedurende 2001 en 2002 in groep C en D visserye (behalwe stokvis handlyn en KZN Strandseënnet) sal geag word mediumtermyn regtehouers te wees vir doeleindes van die langtermyn regtetoekenningsproses. Die gedelegeerde owerheid mag ander individue as mediumtermyn regtehouers beskou indien hulle, byvoorbeeld, beheer verkry het oor 'n medium termyn reg deur 'n oordrag goedgekeur deur die verantwoordelike owerheid.

In terme van hierdie beleid, is kommersiële visvangregte in Groep A en Groep B visserye slegs aan entiteite toegeken word wat ingelyf ingevolge die Maatskappyyewet 61 van 1973 en die Wet op Beslote Korporasies 69 van 1973. Medium termyn regtehouers wat in die vorm van trusts of koöperasies of eenmanssake bedrywig is, moet stappe neem voor die toekenningsproses om na 'n beslote korporasie of 'n maatskappy om te skakel en die nuwe entiteit as die aansoeker nomineer. Die genomineerde beslote korporasie of maatskappy sal behandel word as 'n bestaande regtehouer, met dien verstande dat so 'n aansoeker kan aantoon dat die nuwe beslote korporasie of maatskappy die enigste opvolger van die vorige regtehouer sal wees. 'n Reg sal toegeken word aan die nuwe entiteit en nie aan die individu of die trust nie. Hierdie beleid beteken nie dat 'n trust verhoed word om aandele in 'n aansoeker of regtehouer te hou nie.

In sommige visserye, sal aansoekers aangemoedig word om na die toekenningsproses saam te smelt of om hulpbronne te deel. Verdere besonderhede sal in die Vissery-spesifieke beleidsdokumente verstrek word.

7.3 Transformasie

Die WLMH vereis van besluitnemers om die behoefte vir die herstrukturering van die visvangbedryf in ag te neem ten einde historiese wanbalanse aan te spreek en billikheid in al die takke van die visvangbedryf te bereik. Transformasie is ook 'n grondwetlike vereiste in Suid-Afrika. Die Breed-gebaseerde Swart Ekonomiese Bemagtigingswet 53 van 2003, is een van 'n aantal statutêre instrumente wat aan hierdie grondwetlike vereiste uiting gee. Hierdie wet maak voorsiening dat die Minister van Handel en Nywerheid deur kennisgewing in die Staatskoerant kodes van goeie praktyk oor swart ekonomiese bemagtiging kan uitvaardig. Konsepkodes oor sekere aspekte is gepubliseer vir kommentaar. Die kodes maak voorsiening vir 'n "*gebalanseerde telkaart*" om vordering en status in ondernemings te meet sowel as vir die aanname van transformasie-oktrooie vir spesifieke sektore in die ekonomie, deur hoofinsethouers in daardie sektore.

Die wet en konsepkodes is in ag geneem by die ontwikkeling van hierdie beleid en die vissery-spesifieke beleide. Vanweë die aard van die regtetoekenningsproses het die Minister van Omgewingsake en Toerisme tot op hede nog nie die aanname van oktrooie vir visvangsektore aangemoedig nie en is die gewigte en hoogtemerke gestel in die konsepkodes met betrekking tot eienaarskap en bestuur nie aangeneem nie. By die toekenning van visvangregte moet 'n besluitnemer aansoekers met mekaar, eerder as teen 'n eksterne hoogtemerk, vergelyk. Transformasie is 'n uiters belangrike oorweging in die vergelykende balanseringsproses. Die proses is mededingend en geen "*hoogtemerk*" kan vooraf vasgestel word nie. In 'n sektor wat nie voldoende getransformeer is nie sal aansoekers met hoër transformasie tellings as ander altyd 'n beter kans staan om 'n reg te ontvang of om 'n groter gedeelte van die beskikbare kwantum of vangspoging te ontvang. Die beleid is dat binne so 'n mededingende vergelykende proses, die aanneem van oktrooie en hoogtemerke nie altyd die gepaste wyse is om transformasie te bevorder nie.

Die beleid is om transformasie te bevorder en om te verbeter op die vlakke van transformasie wat behaal is gedurende die medium-termyn regtetoekenning. In die langtermyn regtetoekenningsproses sal slegs gehalte transformasie erken word, dit wil sê transformasie wat werklike voordele inhou vir histories benadeelde persone.

Persone is histories benadeel in die visvangbedryf ten opsigte van toegang tot regte op grond van hul ras. Dit is daarom nodig om die deelname van sulke histories benadeelde persone in alle takke van die visvangindustrie te bevorder. Dit is ook nodig om historiese wanbalanse reg te stel en om billikheid in die

visvangindustrie te bewerkstellig wat die deelname van vroue betref omdat hulle ook in die verlede gemarginaliseer is. In die toekenningsproses mag die ras en geslag van aansoekers, en in die geval van regspersone, die ras en geslag van die aansoeker se aandeelhouders of lede, bestuur, verskaffers en werkspan, dus in aanmerking geneem word. Verder mag korporatiewe maatskaplike belegging in aanmerking geneem word op die wyse hieronder beskryf.

In **Groep A**, sal daar van aansoekers verwag word om eksterne ouditeure te betrek vir die verifikasie van inligting in terme van 'n stel gestelde prosedures.

(a) Ras

Persone wat histories as "Swart", "Kleurling" en "Indiër" geklassifiseer is sal as histories benadeeld beskou word weens ras, met dien verstande dat hulle Suid-Afrikaanse burgers deur geboorte is of burgerskap verkry het voor 27 April 1994.

In **Groepe C en D** sal 'n vasgestelde aantal punte aan swart aansoekers toegeken word. Waar beslote korporasies kwalifiseer (stokvis handlyn en KZN Strandseënnet), sal aan die beslote korporasies 'n persentasie punte toegeken word met verwysing na die persentasie van die ledebelang in die beslote korporasie gehou deur swart persone. In **Groepe C en D** mag swart bestuur, diensbillikheid, regstellende aankope en korporatiewe maatskaplike belegging ook in aanmerking geneem word.

In **Groepe A en B** sal punte toegeken word vir swart eienaarskap en bestuur op wyse beskryf onmiddellik hieronder.

(i) Eienaarskap

Voordelige eienaarskap van die aansoeker deur swart persone in die vorm van nie-beperkte stemregte en ekonomiese belange geassosieer met aandele eienaarskap, sal evalueer en in ag geneem word. By die vasstelling of stemregte en ekonomiese belang "*nie-beperk*" is mag die gedelegeerde owerheid konsep Kode 100 in aanmerking neem, wat vir kommentaar gepubliseer is in terme van die Breed-gebaseerde Swart Ekonomiese Bemagtigingswet. Die gewigte in die Kode uiteengesit sal nie gebruik word nie.

Die deurvloei-beginsel, voorgestel in Kode 100, mag ook gebruik word, indien toepaslik. Byvoorbeeld waar maatskappy A 20% aandele in maatskappy B hou en 10% van maatskappy A in besit is van die aangewese rasse-groepe dra sy aandeel 2% van die besit van maatskappy B deur sodanige groep by. Waar maatskappy

A 55% van maatskappy B se aandele hou en maatskappy A is 60% in besit van die aangewese rasse-groepe, dra dit 33% by tot B se besit deur swart persone.

Addisionele punte mag toegeken aan daardie aansoekers wat geslaag het om hul werknemers te bemagtig deur aandeeldeelnameskemas, met dien verstande dat die aansoeker kan aantoon dat die werknemers werklike voordele (soos dividende) van die skema verkry het.

In die geval van aansoekers vir medium termyn regte (hetsy suksesvol of onsuksesvol), mag punte toegeken word vir beide huidige status en vordering gemaak. Die gedelegeerde owerheid mag 'n vlak van transformasie stel vir die toekenning van die maksimum aantal punte vir swart eienaarskap. Die maksimum aantal punte vir eienaarskap deur swart persone sal aan aansoekers toegeken word wat daardie vlak bereik het.

(ii) **Bestuur**

Die senior of uitvoerende bestuur van 'n aansoeker deur swart persone sal in ag geneem word. Senior of uitvoerende bestuur beskryf gewoonlik daardie persone wat verantwoordelik is vir leiding van die strategiese bedrywighede van die maatskappy wat regstreeks aan die besturende direkteur of die direksie rapporteer. Vir doeleindes van die langtermyn regtetoekenningsproses sal die bestuur van die aansoeker op drie wyses beoordeel word. Eerstens, indien beskikbaar, sal die inligting vervat in billikheidsverslae in aanmerking geneem word. Tweedens, sal die samestelling van die direksie in ag geneem word. Derdens, sal aansoekers inligting moet indien oor die top salaris verdieners van die aansoeker.

(b) **Geslag**

Indien prakties, sal voordelige eienaarskap en bestuur deur vroue in ag geneem word in **Groepe A en B**. In **Groepe C en D**, mag geslag in ag geneem word, byvoorbeeld as 'n valbyl faktor.

(c) **Diensbillikheid**

Aansoekers wat volgens die reg moet voldoen aan die Wet op Diensbillikheid 55 van 1998 sal moet bewys dat hulle daaraan voldoen. Die aantal swart persone en vroue in diens van die aansoeker kan ook 'n balanseringskriterium wees. Meer punte sal toegeken word vir swart persone en vroue wat aan die hoër kant van die aansoeker se salarisskale of in professionele of in vaardige posisies in diens staan teenoor die laer kant en in onvaardige posisies. Daar kan byvoorbeeld van aansoekers verwag word om die persentasie persone van die aangewese rasse-groepe en vroue in die top 10% van die salaristrekkers te spesifiseer,

tussen die top 10% en die top 30%, tussen die top 30% en die top 50% en onder die top 50% of om die aantal swart persone en vroue aangestel in professionele en ander vaardigheidsposisies aan te dui. Meer punte sal toegeken word waar swart persone en vroue in die top skale van verdienste eerder as in die laagste skale van verdienste in diens staan. Vanweë die rasgebaseerde struktering van die Suid-Afrikaanse werksplek, mag loonverskille in ag geneem word.

(d) Vaardigheidsontwikkeling

Daar sal van aansoekers verwag word om aan te toon dat hulle aan die Wet op Vaardigheid Ontwikkeling 97 van 1998 en Die Wet op Heffings op Vaardigheid Ontwikkeling 9 van 1999 voldoen. Indien 'n aansoeker deelneem aan leerskapprogramme of proporsioneel meer bestee op die opleiding van swart persone, mag hierdie faktor in ag geneem word.

(e) Regstellende Aankope

Regstellende aankope (aankope van swart maatskappye) mag as 'n faktor oorweeg word.

(f) Korporatiewe sosiale belegging

Die persentasie van netto wins wat op korporatiewe sosiale belegging spandeer is gedurende die vorige regte periode mag in ag geneem word. Belasting aftrekbare donasies sal geag word korporatiewe sosiale belegging te wees maar ander donasies mag ook in ag geneem word.

7.4 Multi-sektorale betrokkenheid

Oor die algemeen is dit nie 'n beleidsoogmerk om die hou van regte in meer as een vissery te verhoed of te ontmoedig nie. Dit is egter onderhewig aan twee uitsonderings.

Eerstens sal regtehouers in die **Groep A en B** visserye (insluitende hulle beherende aandeelhouers of lede en lede van hulle uitvoerende bestuurspan) nie toegelaat word om kommersiële regte in **Groep C en D** visserye te hou nie. Hierdie visserye word gereserveer vir klein- en medium-grootte ondernemings en individuele vissers wat op daardie voorraad vir hulle bestaan afhanklik is. Regtehouers in **Groep C en D** wat aandele of belange in **Groep A en B** na toekenning wil verkry mag toegelaat word om hulle **Groep C en D** regte aan ander natuurlike persone oor te dra. Die gedelegeerde owerhede vir die oordrag van regte sal sulke aansoeke vir oordragte oorweeg.

Tweedens, sal regtehouers nie toegelaat word om regte te hou in meer as een **Groep C en D** visserye nie, behalwe dat:

- Regtehouers mag enige kombinasie van die volgende regte hou: witmossel, weskuskeef (kuslyn) en netvis (Treknet, Kiefnet en Strandseënnnet);
- 'n KZN Strandseënnnetreg mag ook met 'n oesterreg gehou word.

7.5 Konsolidasie

Tussen 1994 en 2004 het die aantal regtehouers in die kommersiële visvangbedrywe dramaties toegeneem. Met die toekenning van regte was daar 'n besondere behoefte om nuwe inkomelinge toe te laat, veral persone van histories benadeelde sektore van die gemeenskap. As 'n gevolg, is daar in verskeie sektore, getalle gewys, verteenwoordigende vlakke van historiese benadeelde regtehouers. Verteenwoordiging in terme van getalle beteken nie noodwendig breed-gebaseerde en effektiewe deelname van historiese benadeelde persone in die visindustrie nie. Die konsolidasie, eerder as die vermenigvuldiging van regtehouers, het nodig geword ten einde effektiewe deelname te bevorder.

Konsolidasie is ook nodig om die bedryf te rasionaliseer, om wetsnaking te bevorder en om die administratiewe las en kostes vir die Departement en regtehouers te verminder. Dit beteken die vermindering van die aantal entiteite, veral dié wat dieselfde of soortgelyke aandeelhouers het en 'n uitvoerende bestuursplan en fisiese adres deel in 'n spesifieke vissery. In 'n aantal sektore sal venstertydperke oopgestel word na die toekenningsproses wanneer die Minister goedgunstig sal kyk na vorms van konsolidasie wat nie transformasie ondermyn nie. In die langtermyn regtetoekenningsproses sal medium termyn regtehouers nie toegelaat word om binne dieselfde sektor te vermenigvuldig deur onder 'n ander dekmantel vir addisionele regte aansoek te doen nie. Medium termyn regtehouers mag nie aandeel hou in potensiële nuwe aansoekers hou nie..

7.6 Nuwe inkomelinge

Die kwessie van nuwe inkomelinge is 'n vissery-spesifieke een en word in die vissery-spesifieke beleidsdokumente hanteer. 'n Onderskeid word in die vissery-spesifieke beleid getrek tussen "*addisionele*" inkomelinge en "*nuwe*" inkomelinge. Ten einde die deelname van addisionele inkomelinge toe te laat sal die aantal deelnemers in 'n sektor vermeerder moet word van die bestaande getal. Oor die algemeen is daar baie min ruimte om addisionele inkomelinge te akkomodeer, aangesien meeste van die visserye reeds ooronderkryf is. Nuwe inkomelinge kan egter geakkomodeer word deur die vervanging van onsuksesvolle regtehouers aansoekers. Dit sal gedoen word indien bestaande regtehouers versuim het om betekenisvol te transformeer of indien bestaande regtehouers versuim het om na behore te presteer of te investeer, of waar

die visvangpoging binne 'n bepaalde vissery beskou word as minder as optimaal. In sommige sektore, ten einde die regtehouers in 'n sektor te konsolideer, sal die aantal deelnemers verminder word deur nie regte toe ken aan bestaande regtehouers wat lae punte behaal, en deur hulle nie te vervang met nuwe inkomelinge nie.

Oor die algemeen sal die Departement nie regtehouers wat 'n visvangreg verkoop het of op enige wyse vervreem het, toelaat om weer tot daardie kommersiële visvangbedryf toe te tree nie. Dieselfde is van toepassing op aandeelhouers of lede van beslote korporasies wat 'n wesentlike deel van die regtehouer vervreem het.

7.7 Prestasie

Die prestasie van bestaande regtehouers mag onder die volgende hoofde evalueer word:

(a) Finansiële prestasie

Finansiële prestasie van die aansoeker mag volgens 'n stel finansiële verhoudings evalueer word wat hulle leen tot hoogtemerke wat deur geouditeerde state gerugsteun word. Die finansiële state mag ook gebruik word ten einde vas te stel wie die werklike begunstigdes van die toekenning is ("*volg-die-geld beginsel*") en om te bepaal of die regtehouer in die bedryf belê het.

(b) Betaling van heffings

Daar mag van aansoekers verwag word om bewyse te verskaf dat hulle op datum is met betaling van heffings vir vis geland gedurende die medium termyn regtetydperk. Indien heffingbetalings vir meer as 60 dae agterstallig is, mag die aansoeker gepeenaliseer word. Indien die aansoeker nietemin daarin slaag om 'n reg te bekom, sal die Departement nie 'n permit uitreik voor die volle uitstaande bedrag nie betaal is nie.

(c) Wetsnakoming

Aansoekers wat skuldig bevind is aan ernstige oortredings van die WLMH, die regulasies, permitvoorwaardes en ander visvangverbonde oortredings gedurende die medium-termyn regtetydperk mag uitgesluit word. Geringe oortredings insluitend die betaling van skulderkenningsboetes kan as 'n balanseringskriteria in ag geneem word.

Vaartuie op die swartlys van enige streeksvisserystuursorganisasie (SVBO) sal nie toegelaat word om visvoorraad te oes nie. Aansoekers wat vaartuie besit (ten volle of ten dele) of nomineer wat negatief gelys is sal geweier word.

Die Departement se rekords van oortredings van die WLMH sal ter insae beskikbaar gestel word voor die regtetoekenningsproses.

(d) Visvangprestasie

Medium termyn regtehouers se visvangprestasie mag ontleed word, om vas te stel of 'n bestaande regtehouer aansoeker 'n medium termyn toekenning doeltreffend geoes het. Aansoekers wat geen vis gevang het tydens 'n visvangseisoen, of wat vir 'n hele seisoen nie 'n permit afgehaal het nie, mag uitgesluit word. . Ondervangste en oorvangste mag in sekere sektore as balanseringskriteria gebruik word.

Die Departement se rekords van vangsendemente sal ter insae beskikbaar gestel word voor die toekenning van regte, indien dit gebruik gaan word in die toekenningsproses.

7.8 Belegging

'n Belegging in 'n vaartuig wat genomineer is om die bron te oes en in ander vaste bates sal erken word solank daardie belegging 'n egte bedoeling aantoon om te deel aan die risiko van deelneem aan die sektor. Aandeelhouding verkry teen minimum of geen koste vir die aansoeker sal nie as 'n belegging erken word nie. Die vlak van belegging sal beoordeel word aan die hand van die kwantum gehou gedurende die mediumtermyn regtetoekenningsproses.

7.9 Papierkwotas

Die gedelegeerde owerheid moet poog om te voorkom dat papierkwotas die industrie toetree en om papierkwotas wat tans regte hou te verwyder. Papierkwotas ondermyn of omseil die doelwitte van die regtetoekenningsproses.

(a) Nuwe Inkomelinge

In die langtermyn regtetoekenningsproses sal die gedelegeerde owerhede nuwe inkomeling-aansoekers wat lyk na papierkwota-risikos uitsluit. Vir hierdie doel sal die gedelegeerde owerhede 'n aansoeker as 'n "papierkwotarisiko" beskou indien dit blyk dat daardie aansoeker geen ernstige voorneme het om die risiko van

volle deelname aan die sektor te deel nie, veral wanneer die gevaar bestaan dat 'n aansoeker nie aansoek gedoen het om die bedryf toe te tree nie, maar om 'n mate van finansiële voordeel te trek sonder om direk by die hoofbedrywighede geassosieer met ontginning van enige reg wat toegeken word, betrokke te raak. Om vas te stel of 'n nuwe inkomeling aansoeker so 'n papierkwotarisiko inhou, moet die aansoeker se bates en toegang tot kapitaal en finansiële- en besigheidsbeplanning en verbintenisse oorweeg word.

Die gedelegeerde owerhede sal ook papierkwotarisikos aansoekers uitsluit wat as "*fronte*" beskou word vir ander begunstigdes. Fronte vind plaas wanneer, ten einde 'n beleidsoogmerk te omseil, 'n aansoek deur 'n ander entiteit gemaak word. 'n Voorbeeld is wanneer 'n aansoek gemaak word deur 'n oënskynlik getransformeerde entiteit, met die bedoeling dat die hoofvoordele sal vloei na 'n ongetransformeerde entiteit of individue wat nie swart persone is nie.

(b) Medium termyn regtehouers

Die gedelegeerde owerhede sal ook medium-termyn regtehouers uitsluit wat papierkwotas is. Vir hierdie doel sal die gedelegeerde owerhede as papierkwotas beskou medium-termyn regtehouers met swak of geen prestasierekords gekombineerd met geen belegging of betrokkenheid nie.

Die gedelegeerde owerhede sal ook as "*fronte*" uitsluit en sal vir hierdie doel die "*volg-die-geld beginsel*" gebruik om te bepaal of 'n beleidsoogmerk omseil is. Byvoorbeeld, gedelegeerde owerhede sal poog om vas te stel of oënskynlik getransformeerde regtehouers inderdaad enige finansiële of ander voordeel aan swart aandeelhouers of lede toegeken het. Hierdie tipe fronte sal nie weer regte ontvang nie.

As algemene reël sal gedelegeerde owerhede nie toelaat dat regtehouers wat 'n visvangreg verkoop het of op enige wyse vervreem het, daardie kommersiële vissery onder 'n ander dekmantel herbetree nie.

(c) Groep C en D

In Groep C en D sektore sal groot groepe identiese of uiters soortgelyke aansoeke, geborg deur derde partye, as papierkwota-fronte uitgesluit word. Oor die algemeen sal nie meer as een reg per huishouding toegeken word nie. In hierdie sektor sal daar van aansoekers vereis word om hulle verwantskap tot ander aansoekers in die sektor bekend te maak. Indien meer as een persoon per huishouding vir 'n reg aansoek doen mag al die aansoeke van daardie huishouding uitgesluit word, tensy die aansoekers duidelik en oortuigend aantoon dat hulle klein aparte kommersiële ondernemings gevestig het.

(d) Toekomstige regtehouers

Na die langtermyn regtetoekenningsproses sal die Departement probeer om die regte van papierkwota-regtehouers in te trek deur artikel 28 van die WLMH toe te pas. Die Departement sal, as 'n reël, visvangregte van deelnemers wat dit nie effektief benut nie, intrek.

7.10 Waardetoevoeging

Waardetoevoeging beteken daardie aktiwiteite wat kommersiele waarde tot vis toevoeg, ongeag of sulke waarde bereik word op die Suid Afrikaanse of internasionale markte. Waardetoevoeging mag beloon word omdat dit, onder andere, die skepping van werk en rykdom stimuleer.

7.11 Ondernemingsontwikkeling

Ondernemingsontwikkeling behels stappe om swart eienaarskap, bestuur en vaardighede in bestaande en nuwe ondernemings te vermeerder, insluitend beleggingsprogramme en toegang tot finansiering. Hierdie stappe mag beloon word mits hulle nie op pogings neerkom om die wetgewende beskerming van werkers vervat in die arbeids-, gesondheids- en veiligheidswette te omseil nie.

7.12 Werkskepping

'n Belangrike doelwit van langtermyn regtetoekenning is om 'n ongewing te skep wat geskik is vir werkskepping, in besonder, die skepping van meer permanente werk en beter kwaliteit werk in die visvangindustrie.

Werkseleenthede geskep deur medium termyn regtehouers per ton toegeken en die vermeerdering van werk as 'n resultaat van die toekenning van mediumtermynregte, sal beloon word, ten minste in Groep A en B. Die skepping van permanente werk word verkies bo seisoenale werk en seisoenale werk word verkies bo kontrakwerk.

7.13 Afhanklikheid en deelname aan boord

'n Belangrike doelwit by toekenning van regte in **Groep C en D** visserye is om regte toe te ken sodat individue klein kommersiële ondernemings en voltydse beroepe vir hulleself kan vestig. Finansiële afhanklikheid van die inkomste gegenereer deur visvang sal dus 'n faktor wees in meeste van die **Groep C en D** visserye. Dit sal 'n vereiste wees dat die aansoeker persoonlike betrokke is by die visvang of oes van die bron. Meer spesifiek sal "aan boord deelname" deur die regtehouer 'n vereiste wees in meeste **Groep C en D** visserye. Slegs

aanzoekers wat nie in staat is om deel te neem nie as gevolg van permanente fisiese ongeskiktheid, sal van hierdie vereiste vrygestel word. Vroue-aanzoekers sal nie vrygestel word om aan boord deel te neem nie.

Daar sal van bestaande regtehouers vereis word om bewys te voorsien van hul afhanklikheid deur middel van finansiële state en belastingopgawes. Daar sal van potensiële nuwe inkomelinge vereis word om bewys te voorsien van hul afhanklikheid deur hulle historiese betrokkenheid by die sektor waarvoor aansoek gedoen word of hul betrokkenheid in visvangbedryf aan te toon.

7.14 Plaaslike ekonomiese ontwikkeling en geografiese billikheidsoorwegings

Gedelegeerde owerhede mag die landing van vangste in visvanghawens buite die metropolitaanse gebiede beloon ten einde plaaslike ekonomiese ontwikkeling te bevorder, alhoewel dit nie moontlik mag wees om hierdie doelstelling in alle sektore te verwesenlik nie. Ten einde te verseker dat alle visvanggemeenskappe in die bron deel, mag die gedelegeerde owerhede die landingslokaal as 'n puntetoekenning of valbyl kriterium gebruik. Bykomend daartoe, mag die departement beleidstukke en 'n stelsel van heffingtoegewings ontwikkel wat regtehouers aanmoedig om vis te land en te prosesseer in hawens wat ekonomies bedruk is.

7.15 Vaartuie en vangspoging

(a) Vaartuie

Indien van toepassing op die sektor, sal van elke aansoeker vereis word om 'n reg tot toegang tot 'n vaartuig geskik vir die ontginning van daardie spesifieke visbron of bronne aan te toon. Alle vaartuie sal by die Departement geregistreer moet wees ten einde as 'n vangsvaartuig genomineer te word.

'n Geskikte vaartuig sal in die Vissery-spesifieke beleide omskryf word, maar die minimum vereistes vir geskiktheid sal wees:

- Van 'n Suid-Afrikaanse vlag voorsien (tensy 'n uitsondering gemaak word in 'n vissery-beleid);
- Tensy vrygestel, toegerus is met 'n goedgekeurde en funksionerende vaartuigmoniteringstelsel ("VMS");
- Geregistreer deur die Suid-Afrikaanse Maritieme Veiligheidsvereniging as geskik vir visvang; en
- Nie gelys op enige SVBO negatiewe lys nie.

Die Departement sal vereis dat alle aanzoekers vir kommersiële visvangregte die genomineerde vaartuie benut vir die ontginning van die bron. Vaartuig veranderings sal slegs in gepaste gevalle toegelaat word.

(b) Vangspoging

Die Minister en die Departement is verplig om ingevolge die WLMH mariene lewende bronne te bewaar en om voorsorgbenaderings by die bestuur en gebruik van hierdie hulpbronne toe te pas. 'n Sleutelement by bestuur en bewaring van mariene bronne is die beperking van ontplooië visvangpoging om die optimum gebruik van hierdie bronne te verseker.

Die Departement is oor die algemeen gekant teen enige verdere verhoging van vaartuijpoging. Oor-kapasiteit van vaartuie word beskou as een van die primêre bedreigings vir die Suid-Afrikaanse visbronne. Dit plaas ook bykomende laste op die Departement, beide ten opsigte van monitering en wetstoepassing en die bestuur van die ontginning van die bron. Onderworpe aan visserij-spesifieke beleid word gesamentlike en kruis-sektorale gebruik van vaartuie aangemoedig aangesien dit 'n meer doeltreffende en effektiewe gebruik van vaartuie dwarsdeur die seisoen tot gevolg sal hê.

Aan die ander kant word erken dat ouer vaartuie vervang moet word vir, inter alia, veiligheidsredes. Modernisering van die vloot sal onvermydelik tot gevolg hê dat vangskapasiteit verhoog word. Waar nodig, sal perke op vangspoging ingestel word om vangpoging te beperk.

7.16 Veiligheid van personeel en bemanning

Daar sal van aansoekers vereis word om aan te toon dat hulle voldoen het aan die regulerende vereistes van Die Wet op die Suid-Afrikaanse Maritieme Veiligheidsvereniging 5 van 1998 en aan die regulasies uitgevaardig ingevolge die Handelskeepvaartwet 57 van 1951.

Bykomend sal van aansoekers vereis word om aan te toon dat hulle voldoen aan die Wet op Vergoeding vir Beroepsbeserings en Siektes 130 van 1993. Aansoekers word verder herinner aan die Departement se direktief dat maatskappye MIV/VIGS-beleidstukke moet aanneem en mag vereis dat hierdie stukke by die 2005-aansoeke geheg word.

7.17 Byvangsbestuur en verminderingsmaatreëls en storting

Die vermindering en mitigasie teen onbenutte en onder-groote byvangste is 'n belangrike oorweging. Gedelegeerde owerhede mag gevolglik maatreëls geneem en beplan om te mitigeer teen hierdie tipe byvangste in ag neem. In sommige visserij is byvangste onvermydelik en behels 'n aanvaarbare deel van 'n vangs wat toepaslike bestuursprosedures vereis. Die Departement sal voortgaan om beleid te ontwikkel wat verbeterde beoordeling en bestuur van byvangste-spesies verseker.

Die Departement is in die proses om 'n breedvoerige bestuurplan oor byvangste te ontwikkel. By die bepaling van die toepaslikheid van byvangsmitigasie en verminderingstoestelle sal die Departement sy geskiktheid vir 'n vissery oorweeg met verwysing na die aard van die vissery self; die koste-implikasies van enige besondere toestel of mitigasiestrategie; plaaslike en buitelandse vergelykende kennis; en insette van plaaslike vissers en hulle rol by die ontwikkeling van sodanige strategieë (indien toepaslik).

Die Departement moedig maatreëls aan om insidentele byvangste van seevoëls, haaie, mariene soogdiere, jong vis en verskeie kwesbare of bedreigde mariene spesies te minimaliseer. Suid Afrika het 'n Nasionale Plan van Aksie (NPVA) ontwikkel vir die vermindering van insidentele byvangs van seevoëls en 'n konsep NPVA vir die vermindering van byvangs van sekere spesies van haaie. In hierdie verband moedig die Departement sterk aan dat verskeie visvangsektore mitigasie-toestelle gebruik soos die torilyn (mitigasie van voëlbyvangste vir langlyners) ontsnappings- of uitsluitingsapparaat vir treilsektore (ontsnapping van jong vis en moontlik mariene soogdiere) asook bepaalde maasgroottes om die retensie van jong vis in treilnette te beperk. Verder veroordeel die Departement ten sterkste die praktyk van hoë-gradering en die stort van vis asook die opsetlike teikening van byvangspesies. Die Departement sal verder tyd- en ruimtelike sluiting vir visvang oorweeg, waar dit nodig geag word om broeivoorraad en broeigebied te beskerm.

7.18 Omgewingsvolhoubare praktyke

Die gedelegeerde owerhede mag visvangoperasies beloon wat begin het met, belê het in, of navorsing ondersteun het, in omgewingsvolhoubare beste praktyke.

In besonder het die Departement die volgende kwessies geïdentifiseer wat aandag vereis:

- ☐ Die instelling van energie- en brandstofverminderingsmeganismes in fabrieke en vaartuie;
- ☐ Vermindering van byvangste en voëlmortaliteit;
- ☐ Vermindering van ligbesoedeling;
- ☐ Minimalisering van die negatiewe invloed van mariene besoedeling.

7.19 Aasvisserye

Die gedelegeerde owerhede sal nie kommersiële regte vir doeleindes van aas-insameling toeken nie. Die enigste uitsondering tot hierdie beleid sal in die witmosselsektor wees, wat steeds besig is om 'n kommersiële lewensvatbare mark vir menslike gebruik te ontwikkel.

DEEL D: DWARSNYDENDE BELEIDSOORWEGINGS VIR DIE TOEKENNING VAN KWANTUM OF VANGSPOGING

8. Beleidsoorwegings

Oor die algemeen word die besluit om kwantum of vangspoging toe te ken apart geneem van die besluit om suksesvolle aansoekers te identifiseer, alhoewel hierdie besluite onderling verbind is. Die oorwegings van toepassing op regtetoekenning is oor die algemeen op kwantumbesluite van toepassing. In hierdie deel van die beleid, word bykomende oorwegings van toepassing op kwantumbesluite uiteengesit. Die beleidsoorwegings vir die toekenning van vangspoging word in die visserij-spesifieke beleide behandel.

8.1 Groepe A en B

Die toekenning van kwantum in die **Groepe A en B** sektore word in die sektor spesifieke beleide behandel. In sommige sektore sal die meganisme vir die toekenning van kwantum die onderwerp vorm van verdere konsultasie, nadat die aansoek in 'n sektor beoordeel is en die suksesvolle aansoekers geïdentifiseer is. Onderworpe aan die uitkoms van hierdie konsultasies, sal die volgende beginsels toegepas word by die toekenning van kwantum.

Eerstens, kwantum sal toegeken word met verwysing na die aansoeker se 2005 toekenning. Die gedelegeerde owerheid sal 'n minimum hoeveelheid vasstel wat aan nuwe inkomelinge toegeken word, wat as 'n algemene beginsel nie minder sal wees as die laagste hoeveelheid toegeken aan 'n suksesvolle medium termyn regtehouer aansoeker nie.

Tweedens, omdat dit regeringsbeleid is om klein besigheid en breed-gebaseerde swart ekonomiese bemagtiging te ondersteun, skryf die Minister aan die gedelegeerde owerhede voor om te oorweeg om ten minste 10% van die TTV te herverdeel aan klein besighede, wat nuwe inkomelinge en medium termyn regtehouers sal insluit. By oorweging of aan klein besighede herverdeel moet word, moet die gedelegeerde owerhede ag slaan op die aard van die visserij en die vlak van transformasie. In visserij wat voldoende getransformeer is en verteenwoordigend van klein besighede is, mag herverdeling onnodig wees. In visserij wat kapitaal intensief van aard is en gevolglik nie ideaal geskik is vir klein besigheidsontwikkeling nie, moet die gedelegeerde owerhede poog om ten minste 10% van die TTV te herverdeel aan daardie regtehouers wat histories kleiner toekennings ontvang het, maar wat getransformeer het en goed presteer het.

Derdens, en bykomend tot die boonste twee beginsels, mag die gedelegeerde owerheid kwantum toeken gebaseer op kriteria bedoel om die oogmerke te bereik wat in die onderskeie sektor-spesifieke beleide

uiteengesit is, soos transformasie en prestasie. Hierdie kriteria moet ontwerp word in 'n wyse wat verseker dat alle suksesvolle aansoekers, ongeag grote, sal kan baat vind indien hulle voldoen aan die kriteria.

8.2 Groepe C en D

In **Groepe C en D** sal 'n vasgestelde hoeveelheid van die TTV of TOV aan suksesvolle aansoekers toegeken word. Hierdie hoeveelheid sal nie noodwendig dieselfde wees in elke sone of TGRV nie.

8.3 Oormaat kwantum gelaat na appèlle

Oormaat kwantum gelaat na appèlle sal proporsioneel verdeel word.

8.4 Verhoging van die TTV/TOV

Vermeerderings in die TTV of TOV sal toegeken word in terme van die toepaslike bepalings van die WLMH.

DEEL E: BESTUURSOORWEGINGS NA TOEKENNING

In hierdie deel word 'n aantal beleidsoorwegings vir die periode na die toekenning van regte in algemene terme aangespreek. Hoewel hierdie beleidsrigtings nie regstreeks gedurende die langtermyn regtetoekenningsproses toegepas sal word nie, is dit nodig om hulle in hierdie Algemene beleid in te sluit ten einde om potensiële aansoekers in te lig oor die Departement se bestuursdoelwitte nadat die regtetoekenningsproses voltooi is.

9. Medebestuur van die Kommersiële Visserye

Die Departement is geleidelike besig om veranderings in te stel in die bestuur en regulering van Suid-Afrika se kommersiële visserye, deur te beweeg na 'n stelsel van medebestuur met regtehouers, visvanggemeenskappe en ander betrokke belanghebbendes.

In terme van hierdie benadering sal die bestuur van die kommersiële visserye nie uitsluitlik by die Departement rus nie. Die verantwoordelikheid sal met regtehouers gedeel word en, waar toepaslik, met die kusgemeenskappe wat van mariene hulpbronne vir hulle bestaan afhanklik is. 'n Territoriale Gebruiksreg Vissery (TGRV) stelsel is in die perlemoenvissery ingestel en die Departement oorweeg die instelling van 'n soortgelyke benadering in sommige van die ander visserye, soos Stokvis handlyn, Weskuskreef (kuslyn), Oesters, Witmossel en Netvis.

Wat die groter kommersiële visserye betref, sal die Departement nadere werksverhoudings met erkende bedryfsliggame en belangegroepe nastreef, om belegging in vissery-navorsing, bestuur en wetsnakoming te bevorder.

Ten einde medebestuur te fasiliteer is Vissery-spesifieke **Bestuurswerkgroepe** in die meeste visvangsektore gevestig. Regtehouers word in hierdie werkgroepe verteenwoordig deur bedryfsliggame en belangegroepe. Die hoofdoel van 'n Bestuurswerkgroep is om aanbevelings te maak aangaande die bestuur van die vissery, insluitend permitvoorwaardes, geslote seisoene, beperkte gebiede, die aanneem en wysiging van sektorale bestuursplanne, wetsnakoming en vaartuigbeperkings. Wat die groter kommersiële visserye betref, beoog die Departement om sy biologiese en wetenskaplike navorsingsverpligtinge oor visbronne en die impak van visvang op ekosisteme met regtehouers te deel deur middel van die Werkgroepe of ander gepaste meganismes.

Artikel 8(1) van die WLMH bepaal dat die Minister mag, by wyse van 'n kennisgewing in die Staatskoerant, erkenning verleen aan enige bedryfsliggaam of belangegroep in 'n tak van die visvangbedryf wat, in die opinie van die Minister, verteenwoordigend is van daardie spesifieke liggaam of groep. 'n Konsepbeleid aangaande Erkende Bedryfsliggame (EBL) wat voorgestelde erkenningskriteria vervat sal beskikbaar gestel word vir openbare kommentaar, voordat die beleid aangeneem sal word. Waar erkende bedryfsliggame bestaan, mag die Departement kies om slegs deur die erkende bedryfsliggaam te kommunikeer.

10. Heffings en kosteherwinning

Heffings is 'n vasgestelde bedrag betaalbaar deur regtehouers van kommersiële visvangregte per eenheid vis geland en is dus aan die waarde van landings gekoppel. Heffings word tans ingestel ingevolge artikel 29 van die Wet op Seevisserye 12 van 1988.

Tans word die inkomste van heffings gebruik om sommige van die kostes te herwin wat die Departement by die bestuur van die visserye aangaan (insluitend wetsnakoming- en navorsingskoste). Na die toekenningsproses sal die Departement die vatbaarheid ondersoek om 'n stelsel in te bring van vooraf betaling van heffings of betaling by wyse van maandelikse paaielemente gebaseer op die proporsie van Totale Toelaatbare Vangs toegeken (en nie geland nie). Die Departement het ook voorstelle uitgenooi vir die instelling van 'n volledige kosteherwinningstelsel vir die bestuur van kommersiële visserye.

11. Waarnemerprogram

Die Departement se huidige waarnemerprogram fokus op vaartuig en kusgebaseerde wetenskaplike monitering en verslagdoening. Die Departement is van voornemens om die rol van waarnemers uit te brei ten opsigte van wetsgehoorsaamheidsmonitering en verslagdoening en om stelselmatig waarnemersdekking uit te brei na soveel kommersiële visserye as wat prakties moontlik is. Die Departement is ook van voornemens om nuwe metodes in te bring wat wetsgehoorsaamheid sal verseker, soos aanboord kameras. Daar sal van regtehouers verwag word om die kostes te dek verbonde aan die bestuur en implementering van waarnemersprogramme.

12. Oordrag van regte

Aansoeke vir die oordrag van visvangregte word behandel ingevolge artikel 21(2) van die WLMH wat bepaal dat visvangregte oorgedra mag word indien goedgekeur deur die Minister of sy gedelegeerde.

Indien die lede van 'n beslote korporasie of aandeelhouders in 'n maatskappy sommige of al hulle belange of aandele vervreem, bly die visvangregte by dieselfde regsentiteit, en hoef goedkeuring vir die oordrag van daardie reg oor die algemeen nie verkry te word nie. Enige oordrag van aandele of ledebelange wat 'n verandering van beheer oor 'n regspersoon wat 'n visvangreg hou tot gevolg het, sal egter goedkeuring vereis. Dit is om omseiling van artikel 21(2) van die WLMH te verhoed. In die geval van 'n publiek gelyste maatskappy moet goedkeuring verleen word wanneer meer as 35% van die aandeelhouding verkoop word. Indien die regtehouer 'n individu is sal 'n aansoek om oordrag nie slegs gemaak word wanneer die bedoeling is om die reg te verkoop nie, maar ook wanneer die regtehouer sterf en die eksekuteur die reg na 'n ander persoon wil oordra.

Die huidige beleid rakende die oordrag van visvangregte word uiteengesit in Staatskennisgewing 1771 van 27 Julie 2001. Hierdie beleid sal toegepas word totdat dit vervang of gewysig word na die toekenning van langtermynregte. Die volgende faktore is in ag geneem by die oorweging van 'n aansoek om oordrag van 'n kommersiële visvangreg:

- ❑ Die dood, ontbinding, sekwestrasie of likwidasië van die regtehouer;
- ❑ Transformasie;
- ❑ Die bevordering van konsolidasie van die aantal regtehouers en vangspoging in 'n vissery.

Na die toekenning van langtermynregte, mag "vensterperiodes" vir die oordrag van regte geskep word waar, ten einde transformasie en konsolidasie te bevorder, nuwe inkomelinge toegelaat mag word en bestaande regtehouers toegelaat mag word om saam te smelt.

13. Gebruik van voertuie in die kussone

Regtehouers wat die gebruik van 'n voertuig in die kussone benodig ten einde doeltreffend te opereer moet aansoek doen vir 'n permit in terme van die toepaslike Regulasies. Regtehouers word aangeraai om die Riglyne vir die Implementering van Regulasies In Verband met die Beheer van Voertuie in die Kussone: 2004 te raadpleeg. Beide die regulasies en die riglyne is by die Departement beskikbaar (Hoofdirektoraat: Visserye Wetsnakoming) of by www.mcm-deat.gov.za. 'n Permitfooi van R500 is van toepassing en die permit sal geldig wees vir die tydsduur van die kommersiële visvangreg.

14. Beskermde Mariene Gebiede en Visserybestuursgebiede

14.1 Beskermde Mariene Gebiede

Die Departement erken beskermde mariene gebiede as 'n belangrike toevlug vir visbronne wat onder visvangdruk verkeer. Huidiglik sluit hierdie visbronne oor die 50 spesies van lynvis en perlemoen in. Beskermde mariene gebiede word ook erken as 'n belangrike werktuig om onwettige, ongeraporteerde en ongereguleerde visvang te verminder.

Die Minister het 'n aantal beskermde mariene gebiede aangewys, wat ongeveer 20% van Suid Afrika se kuslyn beskerm. Dit bly die bedoeling van die Minister en die Departement om die omvang van die mariene gebiede beskerm teen visvang te vermeerder van die huidige 1% tot die internasionale vasgestelde 20% teen 2015.

14.2 Visserybestuursgebiede

Artikel 15 van die WLMH maak voorsiening vir die verklaring van visserybestuursgebiede vir die bestuur van 'n aangewese spesie en vir die goedkeuring van 'n plan vir die bewaring, bestuur en ontwikkeling van 'n vissery. Die verklaring van visserybestuursgebiede is 'n verdere werktuig wat gebruik mag word, bykomend tot die noodmaatreëls waarvoor voorsiening gemaak word in artikel 16 en voorkeurvisvanggebiede waarvoor voorsiening gemaak word in artikel 17, om visserye beter te bestuur en gebruikerskonflik te verminder.

15. Wetsnakoming en artikel 28 kennisgewings

Die Departement het belê in monitoring-, beheer- en waarnemerstoerusting ("MBW"), insluitende vaartuigmonitoring- en posisioneringstelsels en het moderne patroleringsvaartuie aangeskaf. Die Departement het verder die dienste van toegewyde forensiese ouditdeskundiges en gespesialiseerde vissery-aanklaers bekom.

Die Departement sal toenemend fokus op voorkoming van oortredings en self-regulering. Dit sal gepaardgaan met streng monitoring van prestasie, forensiese ouditering, samewerking met ander regulerende agentskappe soos die Suid-Afrikaanse Inkomstediens en die Suid-Afrikaanse Buro van Standaarde en die toepassing van strenger sanksies, insluitende die intrekking of opskorting van regte ooreenkomstig die bepalings van artikel 28 van die WLMH. Die Departement het alreeds verskeie memorandums van begrip aangegaan met sleutel regulatoriese agentskappe, beide nasionaal en internasionaal, om inligting te deel en om die invoer en uitvoer van visprodukte te monitor.

Die Departement sal kennisgewings ingevolge artikel 28(1) uitreik en die kansellering, herroeping of opskorting van visvangregte in terme van artikel 28(4) van die wet navolg in alle omstandighede waar die Departement van mening is dat 'n oortreding van enige bepaling van die WLMH, die regulasies of permitvoorwaardes, wesentlik is. As 'n visvangreg toegeken is en die regtehouer vervolgens versuim om enige fooi of heffing opgelê ingevolge die toepaslike wetgewing te betaal, sal die Departement nie huiwer om 'n kennisgewing ingevolge artikel 28 van die WLMH uit te reik nie. Bykomend tot die intrekking van regte onder artikel 28 van die WLMH, is die Departement besig om metodes vir die vermindering van kwotas te ondersoek, in die geval van oortredings van die WLMH.

WOORDOMSKRYWING

Aansoekperiode	beteken die periode wat aanvang neem met die publikasie van die uitnodiging om aansoek te doen vir 'n kommersiële visvangreg in die sektor tot die datum waarop die appélowerheid finaal oor die appélle in die sektor beslis het.
Swart persoon	beteken Afrikane, Kleurlinge and Indiërs, met dien verstande dat die persoon 'n Suid Afrikaanse burger deur geboorte is of voor 27 April 1994 burgerskap bekom het.
Kodes van Goeie Praktyk	beteken the konsep SEB Kodes van Goeie Praktyk gepubliseer deur die Minister van Handel en Nywerheid in 2004 in terme van die die Breedgebaseerde Swart Ekonomiese Bemagtigingswet 53 van 2003.
Departement	beteken die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur.
Mediumtermyn regtehouer	beteken 'n regtehouer wat 'n mediumtermyn kommersiële visvangreg ontvang het gedurende die periode 2001/2002 – 2005 in die spesifieke sektor, of wat 'n regtehouer geword het in die sektor deur middel van 'n goedgekeurde oordrag van die visvangreg.
Minister	beteken die Minister van Omgewingsake en Toerisme.
Nuwe inkomeling	beteken 'n aansoeker wat nie 'n mediumtermyn regtehouer is in die betrokke sektor waarvoor aansoek gedoen word nie.

SCHEDULE B

FISHERY SPECIFIC POLICIES



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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE HAKE DEEP-SEA TRAWL
FISHERY: 2005**

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

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1. Introduction

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

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

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

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

2. Sector profile

Commencing in the 1890's, the demersal trawl fishery (deep-sea and inshore sectors) is South Africa's most important fishery and, for the last decade, it has accounted for approximately one half of the wealth generated from commercial fisheries. In the 1960's foreign distant water fleets moved into the Southeast Atlantic, leading to substantial over-exploitation of demersal fish stocks off South Africa and Namibia. The International Commission for the Southeast Atlantic Fisheries ("ICSEAF") was established in 1972 in an attempt to control the rapidly escalating fishery. But it was only the declaration of the 200nm Exclusive Economic Zone in

1978 and subsequent exclusion of foreign fleets that enabled South Africa to reclaim its fish resources and begin to rebuild the demersal resources.

Until 1978 the demersal fishery was largely unregulated and participants were not restricted by fishing limits. An annual total allowable catch ("TAC") was introduced in 1978 and individual quotas were introduced the following year. The fishery was also formally separated into deep-sea and inshore sectors. The Deep-sea Trawl allocation of the global hake TAC has remained remarkably stable, and between 1978 and 2004 it fluctuated between the levels of 140 000 tons (1979) and 133 000 tons (2004). The two species of Cape hakes contribute 80-90% to trawl catches made on the West Coast (mainly deep-water hake) and 60-80% to trawl catches made on the South Coast (mainly shallow-water hake). The balance is made up of various by-catch species many of which are utilised, and on average just over 90% of the catch is retained. The hake deep-sea trawling grounds are widespread on the Cape west coast in waters deeper than 200 metres. On the Cape south coast hake deep-sea trawlers may not fish in water depths of less than 110 metres or within 20 nautical miles of the coast, whichever is the greater distance from the coast, and trawling is focused primarily on two fishing grounds.

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

The hake deep-sea trawl fishery sustains about 8 800 direct jobs along South Africa's west and south east Cape coasts. Of these jobs, 90% are held by persons from historically disadvantaged communities, while 40% are held by women. Working conditions in the hake deep-sea trawl industry are considered to be better than those that prevail in most other

fisheries. The majority of employees are employed on a full-time, year-round basis, with fixed salaries and employment benefits. The average annual income of crew (including skippers) is R63 000 per annum. Certain of the larger deep-sea trawl fishing companies are registered with the "Proudly South African" campaign.

The hake deep-sea trawl fishery is an extremely capital intensive fishery. Existing participants have made substantial investments in vessels as well as processing and marketing infrastructure. The total value of assets in the fishery is estimated to be approximately R2,2 billion. The market value of the landed catch is worth approximately R2 billion annually at current market prices. Although vessels as small as 30 metres in length operate in the fishery, 66 percent of deep-sea trawlers are between 45 metres and 50 metres in length. Fishing trips vary from less than a week to more than 30 days.

3. The medium-term rights allocation process

In 1992, the five largest companies in the fishery held 92 percent of the TAC. In 2004, the five largest companies shared less than 75 percent of the hake resource. In 1992 the smallest quota was 50 tons and the largest was 53 000 tons. Ten years later, the smallest quota was 336 tons and the largest was 45 000 tons. The gap between the smallest and the largest allocations has been closing.

The "internal" transformation of the traditional companies, and the entry of black-owned and managed companies since 1992 has resulted in a significantly improved transformation profile in this fishery. The medium-term rights allocation records show that:

- 74 percent of the current participants are black-owned and managed;
- 42 percent of right-holders are small- and medium-sized enterprises;
- 25 percent of the TAC is held by black-owned companies (in 1992, this was zero percent).

4. Over-arching sectoral objectives

The South African hake deep-sea trawl fishery is the only hake fishery in the world to have been awarded the prestigious *Marine Stewardship Council* certificate (www.msc.org). The

MSC certification is a stamp of approval that indicates that the fish products originate from a sustainable and responsibly managed fishery.

In order to maintain and develop the global image of the South African hake deep-sea trawl fishery, the allocation of commercial fishing rights will be informed by South Africa's domestic, regional and international obligations. Among these obligations is the need to ensure the long-term sustainable utilisation of hake stocks and to manage all known impacts of trawling on the marine ecosystem. This includes measures to manage, prevent and reduce by-catch.

Other, equally important, over-arching objectives for allocating long-term fishing rights in this fishery are to:

- Notably improve the transformation profile of the hake deep-sea trawl fishery by increasing black ownership of the TAC and to redistribute the TAC so as to affirm right holders with smaller allocations in this fishery that are transformed and have performed well;
- Create an environment that attracts investment and stimulates job creation; and
- Support the economic viability and environmental sustainability of the fishery.

5. Duration

Having regard to –

- the transformation profile of the fishery;
- the capital intensity of the fishery;
- the fact that part of the deep-sea trawl fleet is ageing and requires replacement;
- the need to maintain the economic stability and increase the international competitiveness of the fishery;
- the fact that this fishery is MSC certified; and
- the fact that the deep-water hake resource is well managed in terms of reliable and current data,

commercial rights will be allocated for a period of 15 years (01 January 2006 to 31 December 2020). The Department will regularly evaluate right holders against predetermined performance criteria (see further paragraph 12 below).

6. New Entrants

The hake deep-sea trawl fishery is presently over-subscribed with 53 right-holders. The current levels of catch have been reviewed and a conservative management plan has been implemented over the past three years. The TAC has been reduced and further reductions may be required in the near future. New entrants may be admitted but the total number of participants in this fishery will not be increased.

7. Evaluation Criteria

All 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. A proportion of the TAC will then be allocated to each successful applicant in terms of a set of "quantum criteria".

7.1 Exclusionary Criteria

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

- (a) **Form of the Applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted rights. Current natural person right holders must apply in the form of a close corporation or company and will be treated as medium term right holder applicants provided that they comply with the guidelines set out in the General Policy.

- (b) **Compliance:** If a right holder applicant, or its members, directors or controlling shareholders have been convicted of an offence in terms of the MLRA, the applicant will not be allocated a hake deep-sea trawl right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to a right holder applicant if the applicant, or its members, directors or controlling shareholders that have had a fishing right cancelled, suspended or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA.

Decisions may be reserved on applications if a right holder applicant (or its members, directors or controlling shareholders) that are being investigated for breaches of the MLRA. A decision on such an application will be made after the completion of the investigation.

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

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

7.2 Comparative Balancing Criteria

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

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

(a) Transformation

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

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

(b) Investment in the Fishery

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

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered. Right-holder applicants will not be rewarded for having concluded conditional vessel purchase agreements.

- Investments in processing and marketing. In this regard, the delegated authority may reward right-holder applicants that have invested in hake processing factories and marketing activities.

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

(c) Performance

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

(d) Value-Adding and Enterprise Development

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

(e) Jobs

The hake deep-sea trawl fishery provides about 8 800 jobs. Salaries average R63 000 annually for sea-going employees.

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

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

Jobs created per tonnage fish allocated during the medium-term rights allocation process will be assessed.

(f) By-catch

The volume of by-catch landed by participants in the hake deep-sea trawl fishery remains of concern to the Department. The targeting of high value by-catch species such as kingklip (*Genypterus capensis*) and monkfish (*Lophius vomerinus*), is of particular concern as assessments indicate that present catch levels for both species are not sustainable. Kingklip abundance on the south coast is particularly low.

The Department has determined the maximum annual by-catch allowances for kingklip to be 3 000 tons and for monk to be 7 000 tons. These by-catch allowances shall apply to the hake fishery as a whole. Prospective applicants will be required to demonstrate what by-catch mitigation and reduction measures they have been implementing or, if new entrant applicants, would invest in to ensure adherence with the above by-catch limitations. The delegated authority may also have regard to what measures have been put in place or will be invested in to reduce snoek (*Thyrsites atun*) by-catches.

(g) Environmentally sustainable practices

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

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

(h) Local Economic Development

The delegated authority may take into account whether the applicants, particularly right-holders with smaller allocations and new entrant applicants, have elected to land their catches and have them processed in centres outside of the large metropolitan

areas such as Port Elizabeth and Cape Town. If the delegated positively scores these applicants, this must not result in penalising the larger hake deep-sea trawl right-holders that have made substantial investments in processing and marketing facilities in Cape Town and Port Elizabeth.

(i) Non-payment of fish levies

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

(j) Compliance

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

7.3 Quantum criteria

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

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

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

Thirdly, and in addition to the above two principles, the delegated authority shall be entitled to allocate quantum based on criteria intended to achieve the objectives of this policy, such as transformation and performance. These criteria must be designed in a

manner which should ensure that all successful applicants, regardless of the size of their previous allocations, will be able to benefit if they meet the criteria.

8. Suitable Vessels

A suitable hake deep-sea trawl fishing vessel is a vessel that is –

- Registered by SAMSA as having a minimum registered length of approximately 30m;
- Is geared to fish using the trawling method; and
- Is fitted with a functioning vessel monitoring system.

9. Multi-Sector Involvement

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

10. Application fees and levies

The fees for this fishery will be determined having regard to:

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

The annual levies payable with effect from 1 January 2006 will be determined after consultation with right holders. The levies paid will be utilised by the Department for mitigating the annual costs of management, compliance and research.

11. Management measures

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

11.1 Ecosystem approach to fisheries management

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

11.2 Consolidation of participants

After the allocation of 15 year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery, particularly where:

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

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

11.3 Fisheries management areas and marine protected areas

The hake deep-sea trawl fishery targets two types of hakes along the west, south and south east coasts of the Cape. Should the proposed Namaqualand Marine Protected

Area be designated, the harvesting of hake would then effectively be separated into three distinct areas as trawling activities along the west coast would be split north and south of the MPA.

The Department also intends to reduce the sharing of fishing grounds by hake trawlers and hake longliners. Section 15 of the MLRA makes provision for the declaration of fisheries management areas. The Department will consider declaring such management areas in an attempt to address the potential user conflict between longliners and trawlers.

11.4 Vessels and fishing effort

There are presently 100 hake deep-sea trawl fishing vessels that operate in South African waters. The majority are older vessels requiring replacement. The upgrading of the fleet may result in an increase in the fishing effort. The Department will carefully evaluate the cumulative effect of the introduction of further and new vessels into the fleet. Right-holders will not be permitted to introduce vessels capable of expending effort far in excess of their allocations. In addition, the Department may consult with the Fishery Industrial Body on all applications to introduce further or new vessels into the fishery.

11.5 Monopolies

While the Department will encourage the consolidation of right-holders in this fishery, the Department is opposed to monopolies which may operate to the detriment of smaller right-holders. The Department is concerned, in particular, that the smaller right-holders in the fishery are not able to fully realise the value of their allocations due to their size. 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 large right-holders act in a manner contrary to fair competition practices.

11.6 TAC ratios – trawl : line

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

12. Performance measuring

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

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

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

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

13. Observer programme

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

14. Permit conditions

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



**DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME
TAK MARIENE- EN KUSBESTUUR**

**BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN
KOMMERSIËLE VISVANGREGTE IN DIE DIEPSEE STOKVIS-
TREILVANGSVISSERY: 2005**

**HIERDIE BELEID MOET SAAMGELEES WORD MET DIE
ALGEMENE BELEID AANGAANDE DIE TOEKENNING EN
BESTUUR VAN LANGTERMYN KOMMERSIËLE VISVANGREGTE:
2005 (beskikbaar by www.mcm-deat.gov.za)**

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1. Inleiding

Hierdie beleid vir die toekenning en bestuur van kommersiële visvangregte in die diepsee stokvistreilvisserij word uitgereik deur die Minister van Omgewingsake en Toerisme (die "Minister"). Hierdie beleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid" of "die Algemene Beleid").

Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die diepsee stokvistreilvisserij uiteen te sit. Baie van hierdie oorwegings is nie nuut nie. Hulle is in die verlede deur die Minister en gedelegeerde owerhede van die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement") gebruik by die toekenning van regte en tot 'n mate beliggaam hierdie beleid sodanige oorwegings.

Sekere bestuursbeleidsrigtings vir die periode na die toekenning van regte verskyn ook in hierdie konsepbeleid. 'n Bestuurshandleiding vir die Diepsee Stokvis-treilvisserij sal met al die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die bestuursmetodes en -prosedures vir die visserij uitstippel.

Die Minister is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte van die diepsee stokvistreilvisserij toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne 18 van 1998 (die "WLMH") aan 'n senior beambte van die Departement te deleger. Hierdie beleid sal die gedelegeerde owerheid lei in sy besluite oor aansoeke in hierdie visserij.

2. Sektorale profiel

Sedert sy aanvang in 1890's is die bodemtreilvisserij (beide aanlandig en afluandig) Suid Afrika se belangrikste visserij en vir die laaste dekade is dit verantwoordelik vir ongeveer die helfte van al die rykdom wat geskep word deur kommersiële visserij. In die 1960's het buitelandse langafstand vlote in die Suidoos Atlantiese Oseaan inbeweeg wat gelyk het tot die wesentlike oorontginning van bronne van bodemvis spesies langs die Suid-Afrikaanse en Namibiese kuslyne. In 1972 is die Internasionale Kommissie vir die Suidoos Atlantiese Visserij

("IKSOAV") geskep in 'n poging om die snel groeiende vissery te beheer. Dit was egter eers die verklaring van die 200 seemyl Eksklusiewe Ekonomiese Sone en die daaropvolgende uitsluiting van buitelandse vaartuie in 1978 wat Suid Afrika in staat gestel het om weer op sy visbronne aanspraak te maak en begin om die bodemvis bronne weer op te bou.

Tot 1978 was die bodemvissery grootliks ongereguleerd en deelnemers was nie beperk deur visvangperke nie. 'n Jaarlikse TTV was ingestel in 1978 en individuele kwotas die jaar daarna. Die vissery was ook amptelik verdeel tussen diepsee- en kustreilsektore. Die diepseetreil se gedeelte van die globale TTV het merkwaardig stabiel gebly en tussen 1978 en 2004 het dit gewissel tussen vlakke van 140 000 ton (1979) en 133 000 ton (2004). Die twee spesies van Kaapstokvis dra 80-90% by tot alle treilvangste op die Weskus (hoofsaaklik diepsee stokvis) en 60-80% van treilvangste op die Suidkus (hoofsaaklik vlakwater stokvis). Die balans word aangevul deur verskeie byvangste spesies, waarvan baie benut word en gemiddeld word net oor die 90% van vangste behou. Die diepsee-stokvistreilgebiede is wydverspreid op die Kaapse weskus in water dieper as 200 meter. Op die Kaapse suidkus mag treilers nie visvang in water vlakker as 110m nie of binne 20 seemyl vanaf die kus nie, watter een ook al verder is, en word daar hoofsaaklik gefokus op twee visvanggebiede.

Die Departement bestuur die diepseetreilvissery as deel van 'n "stokvis kollektief". Ingevolge die WLMH stel die Minister van Omgewingsake en Toerisme jaarliks 'n "globale" TTV vir stokvis (gekombineerd vir beide spesies). Voor die verdeling tussen die stokvisvangssektore word daar uit die globale stokvis TTV 'n reserwe opsygesit om byvangste te dek in die maasbanker vissery asook, tot en met 2004, 1000 ton vir buitelandse vissers. Huidiglik word die globale stokvis TTV (na aftrekking van die maasbanker byvangs reserwe) verdeel tussen diepseetreil, kustreil, stokvislanglyn- en stokvishandlynvisserye sonder dat die verdeling van die stokvis spesies tussen die verskillende sektore in ag geneem word. In terme van daar reëling, word 83 persent van die TTV toegeken aan die diepsee treilvissery, 6% aan die kustreilvissery en 10% word verdeel tussen stokvislanglyn en stokvishandlyn. 'n Sektorale toekenningproses wat die spesie wat in daardie sektor gevang word en die spesie se bydra tot die globale TTV, in ag neem, moet moontlik ontwikkel word ten einde ontginning van stokvis met die produktiwiteit van die twee spesies te paar.

Die diepsee stokvis-treilvissery onderhou ongeveer 8 800 regstreekse werksgeleenthede langs Suid-Afrika se wes- en suid-oostelike Kaapse kus. Van hierdie werksgeleenthede word 90%

gevol deur persone uit histories benadeelde gemeenskappe, terwyl vroue 40% vul. Werksomstandighede in die diepsee stokvis-treilvisserij word beskou as beter as dit wat tans bestaan in meeste ander visserij. Die meerderheid van die werknemers word op voltydse, jaar-uit basis in diens geneem met vasgestelde salarisse en indiensnemingsvoordele. Die gemiddelde jaarlikse inkomste van die bemanning (insluitende kapteine) is R63 000 per jaar. Sekere van die groter diepsee treilvisvangmaatskappye is geregistreer by die "Trots Suid-Afrikaans" veldtog.

Die diepsee stokvis-treilvisserij is 'n uiters kapitaal-intensiewe visserij. Bestaande deelnemers het aansienlike beleggings in vaartuie sowel as prosesserings- en bemakingsinfrastruktuur gemaak. Die totale waarde van bates in die visserij word op meer as R2,2 biljoen geskat. Die markwaarde van die jaarliks gelande vangste is ongeveer R2 biljoen teen huidige markpryse. Hoewel vaartuie so klein as 30 meter lank in die visserij werksaam is, is 66 persent van diepsee treilers tussen 45 en 50 meter lank. Visvangtogte op see duur van minder as 'n week tot meer as 30 dae.

3. Die proses van medium-termyn regtetoekenning

In 1992 het die vyf grootste maatskappye in die visserij 92 persent van die TTV gehou. In 2004 het die vyf grootste maatskappye, minder as 75 persent van die stokvisbronne gedeel. In 1992 was die kleinste kwota 50 ton en die grootste 53 000 ton. Tien jaar later is die kleinste kwota 336 ton en die grootste 45 000 ton. Die verskil tussen die kleinste en die grootste toekennings raak kleiner.

Die "interne" transformasie van die tradisionele maatskappye en die toetrede van maatskappye in swart besit en onder swart bestuur sedert 1992 het gelei tot 'n aansienlik verbeterde transformasieprofiel in hierdie visserij. Die medium-termyn toekenningsrekords dui daarop dat:

- 74 persent van die huidige deelnemers in swart besit en onder swart bestuur is;
- 42 persent is klein of medium grote ondernemings;
- 25 persent van die TTV word deur maatskappye in swart besit gehou (in 1992, was dit nul persent).

4. Oorkoepelende sektorale doelwitte.

Die Suid-Afrikaanse diepsee stokvis-treilvisserij is die enigste stokvis-visserij in die wêreld waaraan die gesogte **Marine Stewardship Council**-sertifikaat (www.msc.org) toegeken is. Die MSC-sertifikaat is 'n merk van goedkeuring wat aandui dat visprodukte uit 'n volhoubare en verantwoordelik-bestuurde visserij afkomstig is.

Om die internasionale beeld van die Suid-Afrikaanse diepsee stokvis-treilvisserij in stand te hou en te ontwikkel, sal daar ag geslaan word op Suid-Afrika se verpligtinge op nasionale, streeks- en internasionale vlakke wanneer visvangregte toegeken word. Onder hierdie verpligtinge tel die behoefte om die langtermyn volhoubare gebruik van stokvisvoorraad te verseker en om al die erkende impakte van treilvisserij op die mariene ekosisteem te bestuur. Dit sluit in maatreëls in wat byvangste bestuur, voorkom en verminder.

Ander, ewe belangrike, oorkoepelende doelwitte by die toekenning van langtermyn visvangregte in hierdie visserij is om:

- Die transformasieprofiel van die diepsee stokvis-treilvisserij merkbaar te verbeter deur swart eienaarskap van die TTV te vermeerder en deur die TTV te herverdeel ten einde regtehouers met kleiner allokasies in hierdie visserij, wat getransformeer is en goed presteer het, te ondersteun;
- 'n Omgewing te skep wat belegging aanlok en werkskepping stimuleer; en
- Die ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die visserij te ondersteun.

5. Tydsduur

Met inagneming van -

- die transformasieprofiel van die visserij;
- die kapitaal-intensiteit van die visserij;
- die feit dat deel van die diepsee treilervloot verouderd is en vervang moet word;

- die behoefte om ekonomiese stabiliteit in stand te hou en internasionale mededingingheid van die vissery te verhoog;
- die feit dat hierdie vissery MSC gesertifiseer is; en
- die feit dat die diepsee stokvisbron goed bestuur word ingevolge betroubare en huidige data,

sal kommersiële visvangregte vir 'n tydperk van 15 jaar toegeken word (1 Januarie 2006 tot 31 Desember 2020). Die Departement sal gereeld regtehouers evalueer teen voorafbepaalde prestasiekriteria (sien paragraaf 12 hier onder).

6. Nuwe inkomelinge

Die diepsee stokvis-treilvissery is tans oor-onderskryf met 53 deelnemers. Die huidige vangsvlakke is hersien en 'n konserwatiewe bestuursplan is oor die afgelope drie jaar geïmplementeer. Die TTV is verminder en verdere afnames mag nodig wees in die nabye toekoms. Nuwe inkomelinge kan toegelaat word, maar die totale aantal deelnemers in hierdie vissery sal nie vermeerder word nie.

7. Evaluasiekriteria

All aansoeke sal volgens 'n stel "uitsluitingskriteria" gesif word. Nuwe aansoekers en bestaande regtehouers wat aansoek doen sal daarna apart evalueer word in terme van 'n stel gelaaide "vergelykende balanseringskriteria". 'n Afsnypunt of rangorde sal dan bepaal word om die suksesvolle aansoekers te bepaal. 'n Gedeelte van die TTV sal dan aan elke suksesvolle aansoeker toegeken word in terme van 'n stel "kwantumkriteria".

7.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid aangaande die indiening van die aansoeke en wesenlike tekortkominge, sal die gedelegeerde owerheid aansoekers uitsluit wat versuim om aan die volgende vereistes te voldoen:

- (a) **Vorm van aansoeker:** Slegs aansoeke van entiteite geïnkorporeer ingevolge die Wet op Beslote Korporasies 69 van 1984 en die

Maatskappyyewet 61 van 1973 sal in aanmerking kom. Regte sal nie toegeken word aan natuurlike persone (d.w.s. individue of eenmansake) nie. Natuurlike persone wat bestaande regtehouers is moet aansoek doen in die vorm van 'n beslote korporasie of maatskappy en sal as medium termyn regtehouers behandel word indien hulle aan die riglyne uiteengesit in die Algemene Beleid voldoen.

- (b) **Wetsnakoming:** Indien 'n regtehouer aansoeker of sy lede, direkteure of beherende aandeelhouders skuldig bevind is aan 'n misdryf ingevolge die WLMH nie, sal 'n reg nie aan die aansoeker toegeken word nie. Dit sluit nie die betaling van 'n skulderkenningsboete in nie. Regte sal ook nie toegeken word aan 'n regtehouer-aansoeker indien die aansoeker of sy lede, direkteure of beherende aandeelhouders se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH of daar op hul bates beslag gelê is in terme van die Wet op die Voorkoming van Georganiseerde Misdaad 121 van 1998 of die WLMH nie.

Besluite kan gereserveer word oor die aansoeke van regte-houders wat ondersoek word vir oortredings van die WLMH. 'n Besluit oor so 'n aansoek sal geneem word na afhandeling van die ondersoek.

Die Departement vereis dat elke regtehouer 'n heffing betaal op die geteikende vis wat geland word. Regte houders wat vangste ondergerapporteer het ten einde, *inter alia*, die betaling van heffings te vermy sal uitgesluit word. Regtehouers wat nie heffings betaal het nie sal gepenaliseer word in die vergelykende balanseringsproses soos hieronder uiteengesit. Sou sodanige aansoeker egter nietemin vir 'n reg kwalifiseer, sal 'n visvangpermit nie uitgereik word nie alvorens die uitstaande gelde aan die Departement betaal is nie.

- (c) **Papier-kwotas:** Papier-kwotas, soos gedefinieer in die Algemene Beleid, sal uitgesluit word.

- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal moet aantoon dat hulle 'n reg van toegang tot 'n geskikte vaartuig het (sien verder paragraaf 8 hieronder vir die beskrywing van 'n geskikte vaartuig).

7.2 Vergelykende balanseringskriteria

Aansoekers wat regte hou, asook potensiële nuwe inkomelinge, sal evalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal. Die kriteria hieronder uiteengesit moet saamgelees word met die ooreenstemmende kriteria in die Algemene beleid vir verdere detail. Dit is in besonder van toepassing op die "transformasie" kriterium.

(a) Transformasie

Een van die doelwitte met die toekenning van langtermyn visvangregte in hierdie visserij is om die huidige transformasievlak te verbeter. Soos in die Algemene Visvangbeleid bepaal, sal aansoekers evalueer word op grond van -

- Die persentasie swart en vroue eienaarskap en verteenwoordiging op top salarisvlakke, die direksie en senior beampte en bestuursvlakke;
- Of werknemers (anders as top salaristrekkers) voordeel trek uit 'n werknemeraandelekema;
- Regstellende aankope;
- Nakoming van die Wet op Diensbillikheid 55 van 1998 en die verteenwoordigheid van swart persone en vroue op die verskillende diensvlakke. Die gedelegeerde owerheid mag ook die verskil in besoldigingsvlakke tussen die hoogste en laagste betaalde werknemers in ag neem.
- Nakoming van wetgewing oor vaardigheidsontwikkeling en die bedrae spandeer op die opleiding van swart persone en deelname aan leerskap programme; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die visserij

Met betrekking tot bestaande regtehouers, sal die gedelegeerde owerheid die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie en ander vaste bates. Met betrekking tot vaartuie sal beleggings in die vorm van aandeelhouding ook in aanmerking geneem word. Regtehouer aansoekers sal nie beloon word vir die sluit van voorwaardelike koopoporeenkomste nie.
- Beleggings in prosessering en bemarking. In hierdie verband mag die gedelegeerde owerheid aansoekers beloon wat in stokvisprosesseringsfabrieke en bemarkingsaktiwiteite belê het.

Wat nuwe inkomeling aansoekers betref, sal die gedelegeerde owerheid oorweging gee aan beleggings gemaak in ander sektore in die vorm van vaartuie, vaste bates, prosesserings- en bemarkingsinfrastruktuur. Daar sal van alle nuwe inkomeling aansoekers vereis word om aan te toon dat hulle die kennis, vaardigheid en kapasiteit het ten einde aan die diepsee stokvistreilvisserij deel te neem.

(c) Prestasie

Regtehouers wat sonder goeie rede meer of minder as hul toekennings gevang het (met meer as 10%), sal penaliseer word. Finansiële prestasie sal gemeet word soos aangedui in die Algemene Visserijbeleid.

(d) Waardetoevoeging en ondernemingsontwikkeling

Die gedelegeerde owerheid mag oorweging skenk aan ondernemingsontwikkeling en aansoekers se vermoë om waarde toe te voeg tot stokvis by wyse van prosessering.

(e) Werksgeleenthede

Die diepsee stokvis-treilervissery verskaf ongeveer 8 800 werksgeleenthede. Salarisse is gemiddeld R63 000 per jaar vir werknemers wat seevarend is.

Werkskepping en die vermeerdering van werksgeleenthede as gevolg van die toekenning van mediumtermynregte mag in ag geneem word, en in besonder aansoekers wat hulle werknemers voorsien het met—

- Voltydse werk;
- Mediese fonds en pensioen; en
- Veilige werksomstandighede.

Werksgeleenthede geskep is per tonnemaat vis toegeken gedurende die medium-termyn toekenningsproses sal beoordeel word.

(f) Byvangste

Die volume byvangste wat geland word deur deelnemers in die diepsee stokvistreilervissery bly 'n bron van kommer vir die Departement. Veral die teikening van hoë waarde byvangspesies soos koningklip (*Genypterus capensis*) en monnikvis (*Lophius vomerinus*) is besonder kommerwekkend omdat opnames daarop dui dat die huidige vangste van beide spesies bo volhoubare vlakke is. Koningklip-talrykheid aan die suidkus is veral laag.

Die Departement het die maksimum byvangsperk vir koningklip op 3000 ton per jaar vasgestel en dié van monnikevis op 7000 ton. Hierdie byvangstoegewings is op die hele stokvisvissery van toepassing. Daar sal vereis word van voornemende aansoekers om aan te toon watter byvangsmitigasie en verminderingsmaatreëls hulle in werking gestel het of in die geval van nuwe inkomeling aansoekers, in gaan investeer ten einde te verseker dat aan bogenoemde byvangsbeperkings voldoen word. Die gedelegeerde owerheid mag ook in ag neem watter maatreëls ingestel is of waarin investeer sal word ten einde die byvangste van snoek (*Thyrstites atun*) te verminder.

(g) Omgewingsvolhoubare praktyke

Dit word erken dat die gebruik van treilvangs skade aan die seebed berokken. Tot op datum is daar geen afdoende bewys van die omvang van die skade aandui wat veroorsaak word nie. Die gedelegeerde owerheid, in die toepassing van die versigtigheidsbeginsel, sal in ag neem of die aansoeker van voornemens is, of reeds-

- skade aan die seebed te verminder; en
- meer energie en brandstof doeltreffend te wees (ook van toepassing op prosesseringsfabrieke).

(h) Plaaslike ekonomiese ontwikkeling

Die gedelegeerde owerheid mag in ag neem of aansoekers, veral regte-houers met kleiner toekennings en nuwe inkomeling aansoekers, gekies het om hulle vangste te land en te prosesseer in sentrums buite die groot metropolitaanse gebiede soos Kaapstad en Port Elizabeth. Indien die gedelegeerde owerheid positiewe punte toeken aan hierdie aansoekers, mag dit nie lei tot die penalisering van groter diepsee stokvistreilvang regtehouers wat wesentlike beleggings gemaak het in prosessering- en bemarkingsfasiliteite in Kaapstad en Port Elizabeth nie.

(i) Nie-betaling van heffings

Regtehouer aansoekers sal penaliseer word as hul heffings betaalbaar aan die Departement vir 'n tydperk langer as 60 dae agterstallig is op datum van hulle aansoek.

(j) Wetsnakoming

Indien die aansoeker, sy lede of direkteure of beherende aandeelhouders skulderkenningboetes betaal het vir oortredings van die WLMH, die wet se regulasies of permitvoorwaardes sal die aansoeker penaliseer word.

7.3 Kwantumkriteria

In hierdie visserij sal die meganisme vir die toekenning van kwantum die onderwerp wees van verdere konsultasie met aansoekers nadat die aansoek in die visserij oorweeg is en die suksesvolle aansoekers geïdentifiseer is. Onderhewig aan die uitkoms van die konsultasie proses, sal die volgende drie beginsels toegepas word met betrekking tot die toekenning van kwantum.

Eerstens, die toekenning van kwantum aan suksesvolle medium-termyn regtehouers sal vasgestel word met verwysing na kwantum gehou deur regtehouers in 2005.

Tweedens, die gedelegeerde owerheid moet poog om ten minste 10% (tien persent) van die TTV te herverdeel aan regtehouers met klein toekennings, indien hierdie entiteite voldoende getransformeer is en goed presteer het gedurende die medium-termyn proses.

Derdens, en bykomend tot die bogenoemde twee beginsels, sal die gedelegeerde owerheid by magte wees om kwantum toe te ken gebaseer op kriteria wat daarop gemik is om die oogmerke van hierdie beleid te bereik, soos transformasie en prestasie. Hierdie kriteria moet ontwerp word op 'n wyse wat moet verseker dat alle suksesvolle aansoekers, afgesien van die groter van hulle vorige toekenning, daarby kan baat vind indien hulle aan die kriteria voldoen.

8. Geskikte vaartule

'n Geskikte vaartuig vir die diepsee stokvistreilvisserij is 'n vaartuig wat -

- By SAMVV gesertifiseer is met 'n minimum geregistreerde lengte van ongeveer 30 meter;
- Toegegerus is om met die treilnetmetode vis te vang; en
- Toegegerus is met 'n werkende vaartuigmoniteringstelsel.

9. Multi-sektorale betrokkenheid

Regtehouers in die diepsee stokvistreilvisserij word nie verhinder om regte in enige ander visserij in Groepe A en B visserij te hou nie. Regtehouers in die diepsee stokvistreilvisserij (insluitende hulle lede, behorende aandeelhouers en lede van hulle uitvoerende bestuursspan) sal nie toegelaat word om kommersiële visregte in Groepe C en D te hou nie. Dieselfde geld vir tradisionele lynvis.

10. Aansoekgelde en heffings

Die aansoekgelde vir hierdie visserij sal bepaal word met inagneming van:

- Die koste van die hele regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met ingang 1 Januarie 2006 betaalbaar is, sal hersien word na oorlegpleging met regtehouers. Die heffings betaal sal deur die Departement gebruik word vir die mitigasie van jaarlikse kostes van bestuur, wetsnakoming en navorsing.

11. Bestuursmaatreëls

Die bestuursmaatreëls wat hier onder bespreek word, weerspieël sommige van die Departement se hoofvoornemens vir die bestuur van hierdie visserij nadat regte toegeken is.

11.1 Ekosisteembenadering tot bestuur van visserij

Hierdie visserij sal bestuur word ooreenkomstig die ekosisteembenadering tot die bestuur van visserij ("EBV"). 'n Ekosisteembenadering tot visserijbestuur is 'n holistiese en geïntegreerde benadering wat erken dat visvang en verwante aktiwiteite op land die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die diepsee stokvistreilvisserij, is nie daarop gerig om 'n beleidsverklaring te voorsien oor

EBV in die diepsee stokvistreilvisserie nie. Die EBV in die diepsee stokvistreilvisserie sal verder uitgestippel word in die Bestuurshandboek vir die Diepsee Stokvistreilvisserie. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EAF in die kommersiële visserie.

11.2 Konsolidasie van deelnemers

Na die toekenning van kommersiële visvangregte vir 15 jaar in hierdie visserie, sal die Departement die konsolidasie van die aantal regtehouers wat aktief is in die visserie fasiliteer, veral waar:

- Regtehouers dieselfde aandeelhouers, kantore of bestuurspan deel, of
- Kleiner regtehouers verkies om hul sakebedrywighede te konsolideer.

Die konsolidasie van regtehouers is egter onderworpe aan die Departement se benadering tot monopolieë (sien paragraaf 11.5).

11.3 Visseriebestuursgebiede en mariene beskermde gebiede

Die diepsee stokvis-treilvisserie teiken twee soorte stokvis langs die Kaapse wes-, suid- en suidooskus. Indien die voorgestelde Namakwalandse Mariene Beskermde Gebied verklaar word, sal die oes van stokvis effektiewelik verdeel word in drie bepaalde gebiede aangesien treilvisvangbedrywighede langs die westkus na die noorde en die suide van die MBG verdeel sal word.

Die Departement is ook van voorneme om die deel van visvanggebiede deur stokvistreil- en stokvis-langlynvisserie te verminder. Artikel 15 van die WLMH maak voorsiening vir die verklaring van visvangbestuursgebiede. Die Departement sal oorweeg om sodanige bestuursgebiede te verklaar in 'n poging om potensiële gebruikerskonflik tussen treilvisserie en langlynvisserie aan te spreek.

11.4 Vaartuie en vangspogings

Daar is tans 100 diepsee treilvaartuie in Suid-Afrikaanse waters bedrywig. Die meerderheid is ouer vaartuie wat vervang moet word. Die opgradering van die vloot mag 'n verhoging in die vangspoging tot gevolg hê. Die Departement sal die bykomende vangspoging as gevolg van verdere en nuwe vaartuie wat in die vloot ingebring word, met sorg evalueer. Regtehouers sal nie toegelaat word om vaartuie te gebruik wat in staat is om baie meer vangspoging te ontplooi as wat hulle in terme van hulle toekenning kan vang nie. Verder mag die Departement met die Bedryfsligaam van die Visvangsektor oorleg pleeg in verband met aansoeke om verdere of nuwe vaartuie in die sektor te benut.

11.5 Monopolieë

Terwyl die Departement konsolidasie van regtehouers in hierdie die visserij sal aanmoedig, is die Departement gekant teen monopolieë wat tot nadeel van die kleiner regtehouers kan werk. Die Departement is veral bekommerd dat die kleiner regtehouers in die visserij nie in staat is om die waarde van hulle toekennings ten volle te realiseer nie, vanweë hul grote. Op hierdie stadium sal die Departement nie 'n maksimum drempel van die TTV wat enige enkele regtehouer mag hou of beheer instel nie, maar sal monitor of enige groot regtehouers op 'n wyse optree wat strydig is met billike mededingingspraktyke.

11.6 TTV-verhoudings – treilvangvisserij : langlynvisserij

Die huidige TTV-verhouding van treilvisserij : langlynvisserij sal grotendeels behou word. Die verhouding mag egter hersien word indien verdere data oor die relatiewe impak van die onderskeie visserye beskikbaar word.

12. Prestasiemeting

Die Departement sal 'n aantal formele prestasiemetingoefeninge instel vir die duur van die kommersiële visvangregte. Daar word beoog om die prestasiemetingoefening na twee jaar uit te voer en dan elke drie jaar daarna.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers na die toekenning van kommersiële visvangregte gemeet sal word sal finaliseer na die toekenning van kommersiële visvangregte, en na oorlegpleging met regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie, fabrieke en toerusting;
- volhoubare benutting, en in besonder die vermindering van byvangste en die vermindering van die biologiese en ekologiese impak van treilvisvangs;
- nakoming van toepaslike wette en regulasies.

Die oogmerk met prestasiemeting sal wees om te verseker dat die doelstellings van die vissery bereik word en dat bestuursmetodologie en prosedures geskik is en op datum bly.

13. Waarnemerprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassings-doeleindes in te sluit. Die Departement sal verder die dekking van waarneming van hierdie vissery progressief uitbrei. Daar sal van regtehouers verwag word om die koste van die waarnemingsproses te dra.

14. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery sal jaarliks uitgereik word. Die permitvoorwaardes sal vasgestel word na konsultasie met regtehouers in hierdie vissery en sal onderworpe wees aan hersiening soos en wanneer dit nodig mag wees.



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

**POLICY ON THE ALLOCATION AND MANAGEMENT OF LONG-
TERM COMMERCIAL FISHING RIGHTS IN THE HORSE
MACKEREL FISHERY: 2005**

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

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1. Introduction

This policy on the allocation and management of commercial fishing rights in the Horse Mackerel fishery is issued by the Minister of Environmental Affairs and Tourism ("the Minister"). Interested and affected parties are advised that this policy must be read with the General Policy on the Allocation and Management of Long-term Commercial Fishing Rights: 2005 ("the General Fisheries Policy").

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

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

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

2. Biological status of the fishery

The southern African subspecies of horse mackerel (*Trachurus trachurus capensis*) is found along the entire South African coast, but the largest concentrations of adult fish are found on the Agulhas Bank, near the continental shelf break. Juveniles occur inshore, mainly on the west coast, where they are caught by the purse-seine fishery during the first quarter of the year.

The South African horse mackerel stock is comparatively small by world standards. The status of the South African stock is still being assessed. For this reason, the horse mackerel fishery is

managed in terms of a precautionary maximum catch limit ("PMCL"). The PMCL has fluctuated between 22 000 and 54 000 tons since 1990.

It is important to note that the Cape horse mackerel is highly nomadic. Local availability is variable and dependent on environmental conditions.

3. Profile of the Fishery

The horse mackerel resource is harvested mainly by targeted mid-water trawling but there are substantial targeted and incidental catches in the hake-directed bottom trawl fishery. In addition, juvenile horse mackerel is taken as a by-catch in the purse-seine fishery on the west coast. While generally low, the catch of juveniles by the purse-seine fishery has on occasion been substantial and is currently subject to a strict limit of 5 000 tons per annum.

Management of the horse mackerel resource in South African waters is hampered by a lack of data, particularly the lack of suitable time-series of abundance indices. The most reliable current abundance index is derived from the demersal trawl surveys using bottom trawl gear. However, as the Horse Mackerel resource is semi-pelagic, this index most likely underestimates the size of the resource. Consequently, the status and productivity of the resource is less well known relative to other South African resources such as hake, sardine and anchovy. The data on horse mackerel is inadequate because the primary research focus of monitoring surveys has been the assessment of established fisheries such as hake and sardine.

The majority of horse mackerel is caught by a single midwater directed trawler. The majority of horse mackerel is transhipped and exported without landing or processing in South Africa. The fish are exported to West Africa, earning approximately R2.50 per kilogram. The value of the catch is worth approximately R55 million annually.

4. The medium-term rights allocation process

In 2001, medium-term rights for targeted mid-water trawling were allocated to 17 successful applicants, of which five were new entrants. The new entrants were allocated 500 tons (currently 542 tons) each and the rest of the PMCL was divided among existing right-holders.

The allocation considered previous allocations and scores achieved in a comparative balancing assessment.

The medium-term allocation records show that:

- 41 percent of the current participants are black owned;
- 29 percent of the current participants are black managed;
- 37 percent of the PMCL is held by black owned companies.

5. Over-arching sectoral objectives

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

- Notably improve the transformation profile of the horse mackerel fishery;
- Create an environment that attracts investment and stimulates job creation;
- Support the economic viability and environmental sustainability of the fishery; and
- Encourage the landing and processing of horse mackerel for human consumption in South Africa.

The Department will recognise two types of horse mackerel directed effort. Firstly, there will be those right holders that target horse mackerel using a dedicated mid-water trawler. These right-holders may only use a mid-water trawl net and all hake harvested will be regarded as a by-catch. The hake by-catch limitations will apply in this regard.

Secondly, those right-holders that hold a hake deep-sea trawl right in addition to a horse mackerel right may carry both deep water and mid-water trawl nets. All hake caught in this instance will be deducted from the right-holder's hake allocation and all horse mackerel from the right holder's horse mackerel allocation. The right-holder will have to specify the trawl net (midwater or demersal) used for taking each catch.

Right-holders will be required to specify which option they intend exercising.

6. Duration of rights

Having regard to –

- the transformation profile of the fishery
- the capital intensity of the fishery;
- the need to encourage landing of horse mackerel in South Africa and increase the number of South African jobs in this fishery;
- the need to increase the economic stability and competitiveness of the fishery; and
- the fact that the horse mackerel resource requires further research,

commercial rights will be allocated for a period of 10 years (1 January 2006 to 31 December 2015). The Department will regularly evaluate right holders against predetermined performance criteria (see paragraph 13 below).

7. New Entrants

The Department considers this fishery to be optimally exploited and the total number of participants in this fishery will not be increased. However, the poor transformation profile of the sector, coupled with the fact that horse mackerel is harvested and mostly exported without processing occurring in South Africa, means that the delegated authority will consider new entrant applicants to replace existing right holders.

8. Exclusionary criteria

Applications will be screened in terms of a set of “exclusionary criteria”, and thereafter evaluated in terms of a set of weighted “comparative balancing criteria”. A cut-off score will then be determined in order to identify the successful applicant. A proportion of the PMCL 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 delegated authority will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted rights. Current natural person right holders must apply in the form of a close corporation or company and will be treated as medium term right holder applicants provided that they comply with the guidelines set out in the General Policy.
- (b) **Compliance:** If a right holder applicant, or its members, directors or controlling shareholders have been convicted of an offence in terms of the MLRA, the applicant will not be allocated a horse mackerel right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to a right holder applicant if the applicant, or its members, directors or controlling shareholders that have had a fishing right cancelled, suspended or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA.

Decisions may be reserved on applications from if a right holder applicant (or its members, directors or controlling shareholders) that are being investigated for breaches of the MLRA. A decision on such an application will be made after the completion of the investigation.

The Department requires every right-holder to pay a levy on targeted fish landed. Right-holders that have under-reported catches to, *inter alia*, avoid the payment of levies will be excluded. Right-holders that have not paid levies or will be penalised in the comparative balancing process as set out below.

Should such an applicant nevertheless qualify for a right, a fishing permit will not be issued until the outstanding monies have been paid to the Department.

- (c) **Paper quotas:** Paper quotas, as defined in the General Policy, will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (see paragraph 9 below).

8.2 Comparative balancing criteria

Right-holder applicants and new entrant applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the "transformation" criterion.

(a) Transformation

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

- The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- Whether employees (other than top salary earners) benefit from an employee share scheme;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The delegated authority may

also have regard to the wage differentials between the highest and lowest paid employees;

- Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes; and
- Corporate social investment.

(b) Investment in the fishery

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

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered. Applicants may also be rewarded for having concluded agreements in terms of which operating or other costs are shared;
- Investments in processing and marketing infrastructure. The delegated authority will specifically seek to reward those applicants that undertake to land and process horse mackerel in South Africa.

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

(c) Jobs

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

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

Jobs created per tonnage fish allocated during the medium-term rights allocation process will be assessed.

(d) Value-adding, local marketing and enterprise development

The delegated authority may have regard to enterprise development and the ability of applicants to add or who intend to add value to horse mackerel by processing fish products for local and international markets. The delegated authority will reward the landing and selling of horse mackerel in South Africa.

(e) Performance

Applicants that without good reason over- or under-caught by more than 10 percent of its allocation will be penalised. Financial performance will be measured, as indicated in the General Policy.

(f) Payment of fish levies

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

(g) By-catch

The impact of trawling for horse mackerel on dolphins, pelagic sharks and sunfish is a concern. Applicants able to demonstrate steps taken to reduce the impact of mid-water trawling on these species will be positively scored.

The hake by-catch in the horse mackerel targeted mid-water trawl fishery is expected to be just under two percent of the horse mackerel catch. Prospective applicants will be required to demonstrate what by-catch mitigation and reduction measures they have been implementing or - if new entrant applicants - would invest in to ensure adherence to the above by-catch limitations.

(h) Compliance

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

8.3 Quantum criteria

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

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

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

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

9. Suitable vessels

A suitable horse mackerel fishing vessel is a vessel that is –

- Either a mid-water directed vessel geared for mid-water trawling or a suitable hake deep-sea trawl vessel that is capable of carrying a mid-water trawl net;
- Is SAMSA certified; and
- Is fitted with a functioning vessel monitoring system.

It is important to note that the Department does not intend to allow a further mid-water directed trawler into this fishery based on current resource data.

10. Multi-sector involvement

Right-holders in the horse mackerel fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the horse mackerel 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, including traditional line fish.

11. Landing sites

Unless specified otherwise in individual permit conditions, only the South African ports of Saldanha, Cape Town, Hout Bay, Mossel Bay and Port Elizabeth may be used to land catches.

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 horse mackerel fishing policy does not attempt to provide a policy statement on EAF in the horse mackerel fishery. The EAF

in the horse mackerel fishery will be detailed further in the Fishery Management Manual for the horse mackerel fishery. 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 10-year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery, particularly where:

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

12.3 Precautionary maximum catch limit

The resource will be managed using a PMCL and gear restrictions. The PMCL will be determined annually and will be based primarily on an age-structured surplus production model that uses catch data and survey biomass estimates. In addition, the PMCL may be adjusted in terms of the perturbation experiment with the purpose of eliciting responses from the resource, thereby improving the information content of the data available for stock assessments. The method of annual PMCL determination may be modified during the rights period, based on available data and improved assessment procedures.

Part of the PMCL will be allocated among right-holders for targeted fishing using bottom and mid-water trawl gears, and part will be held in reserve to cover by-catch in the hake-directed demersal fishery. In addition, the pelagic purse-seine fleet will not be permitted to catch more than 5 000 t of horse mackerel.

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 two years and thereafter every three years.

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

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

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

14. Application fees and levies

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

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

The annual levies payable with effect from 1 January 2006 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

15. Observer programme

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

16. Permit conditions

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



**DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME
TAK MARIENE- EN KUSBESTUUR**

**BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN
LANGTERMYN KOMMERSIËLE VISVANGREGTE IN DIE
MAASBANKER ("Horse Mackerel") VISSERY: 2005**

**HIERDIE BELEID MOET SAAMGELEES WORD MET DIE
ALGEMENE BELEID AANGAANDE DIE TOEKENNING EN
BESTUUR VAN LANGTERMYN KOMMERSIËLE VISVANGREGTE:
2005 (beskikbaar by www.mcm-deat.gov.za)**

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1. Inleiding

Hierdie beleid oor die toekenning en bestuur van kommersiële visvangregte in die Maasbanker ('Horse Mackerel') vissery word uitgereik deur die Minister van Omgewingsake en Toerisme (die 'Minister'). Hierdie beleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid").

Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die maasbankervissery uiteen te sit. Baie van hierdie oorwegings is nie nuut nie. Hulle is in die verlede deur die Minister en gedelegeerde owerhede van die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement") gebruik by die toekenning van regte en tot 'n mate beliggaam hierdie beleid sodanige oorwegings.

Sekere bestuursbeleidsrigtings vir die periode na die toekenning van regte verskyn ook in hierdie beleid. 'n Bestuurshandleiding vir die Maasbanker vissery sal met al die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die bestuursmetodes en -prosedures vir die vissery uitstippel.

Die Minister is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte in die maasbanker vissery toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne, 18 van 1998 ("die WLMH") aan 'n senior beampte van die Departement te deleger. Hierdie beleid sal die gedelegeerde owerheid lei by die neem van besluite oor aansoeke in hierdie vissery.

2. Biologiese status van die vissery

Die suidelike Afrikaanse sub-spesie maasbanker (*Trachurus trachurus capensis*) kom langs die hele Suid-Afrikaanse kus voor, maar die grootste konsentrasie volwasse vis word gevind op die Agulhas-bank, naby die breuk van die kontinentale plat. Jeugdige kom aanlandig voor hoofsaaklik langs die weskus, waar hulle deur beursnetvisser in die eerste kwartaal van die jaar gevang word.

Die Suid-Afrikaanse voorraad maasbankers is, vergeleke met wêreldstandaarde, redelik klein. Die status van die Suid-Afrikaanse voorraad word steeds bepaal. Om hierdie rede word die maasbankervissery bestuur in terme van 'n maksimum voorsorgvangspers (MVVP). Die MVVP het sedert 1990 tussen 22 000 en 54 000 ton gewissel.

Dit is belangrik dat kennis geneem word van die feit dat die Kaapse maasbanker hoogs nomadies is. Plaaslike beskikbaarheid wissel en is afhanklik van omgewingstoestande.

3. Sektorale Profiel

Die maasbankerbron word ge-oë hoofsaaklik deur geteikende mid-water treil, maar aansienlike geteikende en insidentele byvangst vind plaas in die bodemtreilvisserij wat op stokvis gemik is. Verder word jong maasbankers aan die westkus as byvangs in die beursnetvisserij gevang. Terwyl die vang van jeugdige deur die beursnetvisserij gewoonlik laag is, was dit by geleentheid aansienlik en word tans streng beperk tot 5 000 ton per jaar.

Bestuur van die maasbankerbron in Suid-Afrikaanse waters word bemoeilik deur 'n gebrek aan data, veral die gebrek aan tydsgekoördede bronvlak aanwysers. Die mees betroubare huidige talrykheidsindeks word afgelei van diepseetreil oorsigte wat bodemtreiltoerusting gebruik. Aangesien die maasbanker bron egter semi-pelagies is, onderskat die indeks egter waarskynlik die grootte van die bron. Die status en produktiwiteit van die bron is dus relatief minder bekend as dié van ander Suid-Afrikaanse bronne soos stokvis, sardien en ansjovis. Die data oor maasbankers is onvoldoende, want die hoofnavorsingsfokus van moniteringsoorsigte was die beoordeling van gevestigde visserij soos stokvis en sardiens.

Die meerderheid van maasbankers word gevang deur hoofsaaklik een gerigte midwater-treilboot. Die meerderheid maasbankers word oorgelaai en uitgevoer sonder om in Suid-Afrika geland of geprosesseer te word. Die vis word na Wes-Afrika uitgevoer en verdien ongeveer R2.50 per kilogram. Die vang is jaarliks ongeveer R55 miljoen werd.

4. Die proses van medium-termyn regtetoekenning

In 2001 is medium-termyn regte vir geteikende midwater-treilvisserij aan 17 aansoekers toegeken, waarvan vyf nuwe inkomelinge was. Die nuwe inkomelinge het elk 500 ton ontvang

(tans 542) en die res van die MVVP is onder bestaande regtehouers verdeel. Die toekenning het oorweging gegee aan vorige toekennings en punte behaal in die vergelykende balanseringsproses.

Die medium-termyn toekenningsrekords wys dat:

- 41 persent van die huidige deelnemers in swart besit is;
- 29 persent van die huidige deelnemers onder swart bestuur is;
- 37 persent van die MVVP gehou word deur maatskappye in swart besit.

5. Oorkoepelende sektorale doelwitte

Die oorkoepelende sektorale doelwitte met die toekenning van langtermyn-visvangregte in hierdie vissery is om:

- die transformasieprofiel van die maasbankervissery merkbaar te verbeter;
- 'n omgewing te skep wat belegging aanlok en werkskepping stimuleer;
- die ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die vissery te ondersteun;
- die landing en prosessering van maasbankers vir menslike gebruik in Suid-Afrika aan te moedig.

Die Departement sal erkenning gee aan twee tipes maasbanker gerigte vangspogings. Eerstens, dié regtehouers wat maasbanker met gebruik van 'n gerigte midwater-treilboot teiken. Hierdie regtehouers mag slegs 'n midwater-treilnet gebruik en alle stokvis wat geoes word, sal as byvangs beskou word. Die beperking op stokvis-byvangste sal hier geld.

Tweedens, mag regtehouers wat 'n diepsee stokvistreilreg asook 'n maasbankerreg het, 'n diepwater en 'n midwater treilnet dra. Stokvis wat in hierdie geval gevang word, sal van die regtehouer se stokvistoekenning afgetrek word en maasbanker van die regtehouer se maasbanker toekenning. Die regtehouer sal die treilnet (bodem of middel-water) wat gebruik is om elke vangs te maak, moet spesifiseer.

Daar sal van regtehouers vereis word om te spesifiseer watter opsie hulle van voornemens is om uit te oefen.

6. Tydsduur van regte

Met inagneming van -

- die transformasieprofiel van die vissery;
- die kapitaal-intensiteit van die vissery;
- die behoefte om die landing van maasbankers in Suid-Afrika aan te moedig en om meer Suid-Afrikaanse werksgeleenthede in hierdie vissery te skep;
- die behoefte aan die verhoging van ekonomiese stabiliteit en mededinging van die vissery; en
- die feit dat die maasbankerbron meer navorsing benodig,

sal kommersiële visvangregte vir 'n tydperk van 10 jaar toegeken word (1 Januarie 2006 tot 31 Desember 2015). Die Departement sal gereeld regtehouers evalueer teen voorafbepaalde prestasiekriteria (sien paragraaf 13 hieronder).

7. Nuwe inkomelinge

Die Departement is van mening dat die vissery optimaal ontgin word en die totale aantal deelnemers in die vissery sal nie vermeerder word nie. Die swak transformasieprofiel, tesame met die feit dat maasbankers geoes en uitgevoer word sonder dat prosesering in Suid-Afrika plaasvind, beteken egter dat die gedelegeerde owerheid dit sal oorweeg om bestaande regtehouers met nuwe inkomelinge te vervang.

8. Evaluasiekriteria

Aansoeke sal ingevolge 'n stel "uitsluitingskriteria" gesif word en sal daarna evalueer word in terme van 'n stel gelaai "vergelykende balanseringskriteria". 'n Afsnypunt sal dan bepaal word ten einde die suksesvolle aansoekers te identifiseer. 'n Gedeelte van die MVVP sal dan aan elke suksesvolle aansoeker toegeken word in terme van 'n stel "kwantumkriteria".

8.1 Uitsluitingskriteria

Behalwe die kriteria beskryf in die Algemene Beleid aangaande die indiening van aansoeke en wesentlike tekortkominge, sal die gedelegeerde owerheid aansoekers uitsluit wat versuim om aan die volgende vereistes te voldoen:

- (a) **Vorm van die aansoeker:** Slegs aansoeke van entiteite geïnkorporeer ingevolge die Wet op Beslote Korporasies 69 van 1984 en die Maatskappyyewet Wet 61 van 1973 sal oorweeg word. Regte sal nie toegeken word aan natuurlike persone (d.w.s. individue of eenmansake) nie. Natuurlike persone wat bestaande regtehouers is moet aansoek doen in die vorm van 'n beslote korporasie of maatskappy en sal as medium termyn regtehouer aansoekers behandel word indien hulle aan die riglyne uiteengesit in die Algemene Beleid voldoen.
- (b) **Wetsnakoming:** Indien 'n regtehouer aansoeker of sy lede, direkteure of beherende aandeelhouders skuldig bevind is aan 'n misdryf ingevolge die WLMH nie, sal 'n reg nie aan die aansoeker toegeken word nie. Dit sluit nie die betaling van 'n skulderkenningsboete in nie. Regte sal ook nie toegeken word aan 'n regtehouer-aansoeker indien die aansoeker of sy lede, direkteure of beherende aandeelhouders se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH of daar op hul bates beslag gelê is in terme van die Wet op die Voorkoming van Georganiseerde Misdaad 121 van 1998 of die WLMH nie.

Besluite mag gereserveer word oor die aansoeke van regte-houders wat ondersoek word vir oortredings van die WLMH. 'n Besluit oor so 'n aansoek sal geneem word na afhandeling van die ondersoek.

Die Departement vereis dat elke regtehouer 'n heffing betaal op die geteikende vis wat geland word. Regte houders wat vangste onder-gerapporteer het ten einde, *inter alia*, die betaling van heffings te vermy sal uitgesluit word. Regtehouers wat nie heffings betaal het nie sal gepeenaliseer word in die vergelykende balanseringsproses soos hieronder uiteengesit. Sou sodanige

aansoeker egter nietemin vir 'n reg kwalifiseer, sal 'n visvangpermit nie uitgereik word nie alvorens die uitstaande gelde aan die Departement betaal is nie.

- (c) **Papierkwotas:** Papierkwotas soos gedefinieer in die Algemene Beleid, sal uitgesluit word.
- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal moet aantoon dat hulle reg van toegang tot 'n geskikte vaartuig het (sien verder paragraaf 9 hieronder)

8.2 Vergelykende balanseringskriteria

Aansoekers wat regte hou, asook potensiële nuwe inkomelinge, sal evalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal. Die kriteria hieronder uiteengesit moet saamgelees word met die ooreenstemmende kriteria in die Algemene beleid vir verdere detail. Dit is in besonder van toepassing op die "transformasie" kriterium.

(a) Transformasie

Een van die doelwitte met die toekenning van langtermyn visvangregte in hierdie visserij is om die huidige transformasievlakke te verbeter. Soos in die Algemene Visvangbeleid bepaal, sal aansoekers evalueer word op grond van -

- Die persentasie swart en vroue eienaarskap en swart en vroue verteenwoordiging op top salarisvlakke, die direksie en senior beampte en bestuursvlakke;
- Of werknemers (anders as top salaristrekkers) voordele trek uit 'n werknemeraandeleskema;
- Regstellende aankope;
- Nakoming van die Wet op Diensbillikheid 55 van 1998 en die verteenwoordiging van swart persone en vroue op verskillende

diensvlakke onder senior beampte en bestuursvlakke. Die gedelegeerde owerheid mag ook die verskil in besoldigingsvlakke tussen die hoogste en laagste betaalde werknemers in ag neem.

- Nakoming van wetgewing oor vaardigheidsontwikkeling en die bedrae spandeer op die opleiding van swart persone en deelname aan leerskapprogramme; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die visserij

Met betrekking tot bestaande regtehouers, sal die gedelegeerde owerheid die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie en ander vaste bates. Met betrekking tot beleggings in vaartuie sal beleggings in die vorm van aandeelhouding ook in aanmerking geneem word. Aansoekers mag ook beloon word vir die sluit van ooreenkomste in terme waarvan bedryfs-en ander kostes gedeel word;
- Beleggings in land gebaseerde prosesseringsfasiliteite en bemarkingsinfrastruktuur. Die gedelegeerde owerheid sal spesifiek poog om daardie aansoekers te beloon wat onderneem om hulle vangste in Suid Afrika te land en te prosesseer.

Wat nuwe inkomeling aansoekers betref, sal die gedelegeerde owerheid oorweging gee aan beleggings gemaak in ander sektore in die vorm van vaartuie, vaste bates, prosesserings- en bemarkingsinfrastruktuur. Daar sal van alle nuwe inkomeling aansoekers vereis word om aan te toon dat hulle die kennis, vaardigheid om maasbanker te vang.

(c) Werksgeleenthede

Werkskepping en die vermeerdering van werk as gevolg van die toekenning van mediumtermynregte sal in ag geneem word, en in besonder aansoekers wat hulle werknemers voorsien het met—

- Voltydse werk;
- Mediesefonds en pensioen; en
- Veilige werksomstandighede.

Werksgeleenthede geskep per tonnemaat vis toegeken gedurende die medium-termyn toekenningsproses sal bepaal word en in ag geneem word.

(d) Waardetoevoeging, plaaslike bemaking en ondernemingsontwikkeling

Die gedelegeerde owerhied mag oorweging skenk aan ondernemingsontwikkeling en aansoekers se vermoë of voorneme om waarde toe te voeg tot maasbankers deur die prosessering van visprodukte vir plaaslike en internasionale markte. Die gedelegeerde owerheid sal die landing en verkoop van maasbankers in Suid Afrika beloon.

(e) Prestasie

Regtehouers wat sonder goeie rede meer of minder gevang (met meer as 10% van hul toekennings) sal penaliseer word. Finansiële prestasie sal gemeet word soos aangedui in die Algemene Visserybeleid.

(f) Nie-betaling van heffings

Regtehouer aansoekers sal gepenaliseer word as hul heffings vir 'n tydperk langer as 60 dae agterstallig is op datum van hulle aansoek.

(g) Byvangste

Die impak van treilvangs op dolfyne, pelagiese haaie en sonvis is 'n bron van kommer. Aansoekers wat stappe kan aantoon wat geneem is om die impak van midwater treilvisserij op hierdie spesies te verminder sal 'n positiewe puntetoekenning kry.

Stokvis byvangste in die maasbanker geteikende midwater treilbedryf word op net minder as twee persent van die maasbankervangs bereken. Daar sal vereis word van voornemende aansoekers om aan te toon watter byvangsmitigasie en verminderingsmaatreëls hulle in werking gestel het of in die geval van nuwe inkomeling aansoekers, in gaan investeer ten einde te verseker dat aan bogenoemde byvangsbeperkings voldoen word.

(h) Wetsnakoming

Indien die aansoeker, sy lede of direkteure of beherende aandeelhouders skulderkenningboetes betaal het vir oortredings van die WLMH, die wet se regulasies of permitvoorwaardes sal die aansoeker penaliseer word.

8.3 Kwantumkriteria

In hierdie visserij sal die meganisme vir die toekenning van kwantum die onderwerp wees van verdere konsultasie met aansoekers nadat die aansoeke in die visserij oorweeg is en die suksesvolle aansoekers geïdentifiseer is. Onderhewig aan die uitkoms van die konsultasie proses, sal die volgende drie beginsels toegepas word met betrekking tot die toekenning van kwantum.

Eerstens, die toekenning van kwantum aan suksesvolle medium-termyn regtehouers sal vasgestel word met verwysing na kwantum gehou deur regtehouers in 2005.

Tweedens, die gedelegeerde owerheid moet poog om ten minste 10% (tien persent) van die TTV te herverdeel aan regtehouers met klein toekennings, indien hierdie

entiteite voldoende getransformeer is en goed presteer het gedurende die medium-termyn proses.

Derdens, en bykomend tot die bogenoemde twee beginsels, sal die gedelegeerde owerheid by magte wees om kwantum toe te ken gebaseer op kriteria wat daarop gemik is om die oogmerke van hierdie beleid te bereik, soos transformasie, waardetoevoeging en plaaslike bemaking van maasbanker vir menslike gebruik. Hierdie kriteria moet ontwerp word op 'n wyse wat moet verseker dat alle suksesvolle aansoekers, afgesien die grote van hulle vorige toekenning, daarby kan baat vind indien hulle aan die kriteria voldoen.

9. Geskikte vaartuie

'n Geskikte vaartuig vir die maasbankervissery is 'n vaartuig wat -

- Of 'n midwater gerigte vaartuig is, toegerus vir midwater treilvangs, of 'n geskikte diepsee-treilvangsvaartuig wat in staat is om 'n midwater treilnet te dra;
- SAMVV-gesertifiseerd is; en
- Toegerus is met 'n funksionerende vaartuigmoniteringstelsel.

Dit is belangrik om daarop te let dat, gebaseer op huidige bron data, die Departement nie van voornemens is om om 'n verdere midwater gerigte treiler in hierdie vissery toe te laat nie.

10. Multi-sektorale betrokkenheid

Regtehouers in die maasbankervissery word nie verhinder om regte in enige ander vissery in Groepe A en B visserye te hou nie. Regtehouers in die maasbankervissery (insluitende hulle beherende aandeelhouders en lede van hulle uitvoerende bestuursplan) sal nie toegelaat word om kommersiële visregte in Groepe C en D te hou nie. Dieselfde geld vir tradisionele lynvis.

11. Landingplekke

Tensy tot die teendeel aangedui in individuele permitvoorwaardes mag vangste slegs geland word by die Suid-Afrikaanse hawens van Saldanha, Kaapstad, Houtbaai, Mosselbaai en Port Elizabeth.

12. Bestuursmaatreëls

Die bestuursmaatreëls wat hieronder bespreek word weerspieël sommige van die Departement se hoofvoornemens vir die bestuur van hierdie vissery nadat regte toegeken is.

12.1 Ekosisteem-benadering tot bestuur van vissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die bestuur van visserye ("EBV"). 'n Ekosisteembenadering tot visserybestuur is 'n holistiese en geïntegreerde benadering wat erken dat visvang en verwante aktiwiteite op land die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die maasbankervissery, is nie daarop gerig om 'n beleidsverklaring te voorsien oor EBV in die maasbankervissery nie. Die EBV in die maasbankervissery sal verder uitgestippel word in die Bestuurshandleiding vir die maasbankervissery. Suid Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserye.

12.2 Konsolidasie van deelnemers

Na die toekenning van kommersiële visvangregte vir 10 jaar in hierdie vissery, sal die Departement die konsolidasie van die aantal regtehouers wat aktief is in die vissery fasiliteer, veral waar:

- Regtehouers dieselfde aandeelhouers, kantore of bestuurspan deel, of
- Kleiner regtehouers verkies om hul sakebedrywighede te konsolideer.

12.3 Maksimum voorsorg-vangspers

Die bron sal bestuur word met gebruik van toerustingbeperkings en 'n MVVP. Die MVVP sal jaarliks bepaal word en word hoofsaaklik gebaseer op 'n ouderdoms-gestruktureerde surplusproduksiemodel wat vangdata en biomassa-beramings gebruik. Verder mag die MVVP aangepas word in terme van versteuringseksperimente met die doel om reaksies uit die bron lok. Hiervolgens kan die inhoud van die beskikbare data vir bronbepalings verbeter word. Die metode van jaarlikse MVVP bepaling, mag gedurende die regtetydperk op grond van beskikbare data en verbeterde bepalingprosedures gewysig word.

'n Deel van die MVVP sal toegeken word onder regtehouers vir geteikende visvang met die gebruik van bodem- en midwater-treiltoerusting en 'n deel sal gereserveer word om byvangste in die stokvis geteikende bodemvisserij te dek. Verder sal die pelagiese beursnetvloot, nie toegelaat word om meer as 5 000 ton maasbankers te vang nie.

13. Meet van prestasie

Die Departement sal 'n aantal formele prestasie-metingoefeninge instel vir die duur van die kommersiële visvangregte. Daar word beoog om die prestasie-metingoefening na twee jaar uit te voer en dan elke drie jaar daarna.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers na die toekenning van kommersiële visvangregte gemeet sal word sal finaliseer na die toekenning van kommersiële visvangregte, en na oorlegpleging met regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie, fabriek en toerusting;
- volhoubare benutting, en in besonder die vermindering van byvangste en die vermindering van die ekologiese impak van treilvisvangs;
- nakoming van toepaslike wette en regulasies.

Die oogmerk met prestasiemeting is om te verseker dat die doelstellings van die vissery bereik word en dat bestuursmetodologie en prosedures geskik is en op datum bly vir die vissery.

14. Aansoek fooie en heffings

Die aansoekgelde vir hierdie vissery sal bepaal word met inagneming van:

- Die koste van die hele regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met ingang 1 Januarie 2006 betaalbaar is, sal bepaal word na oorlegpleging met regtehouers. Die heffings betaal sal deur die Departement gebruik word vir die mitigasie van jaarlikse kostes van bestuur, wetsnakoming en navorsing.

15. Waarnemersprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassings-doeleindes in te sluit. Die Departement sal verder die dekking van waarneming van hierdie vissery progressief uitbrei. Daar sal van regtehouers verwag word om die koste van die waarnemingsproses te dra.

16. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery sal jaarliks uitgereik word. Die permitvoorwaardes sal vasgestel word na konsultasie met regtehouers in hierdie vissery en sal onderworpe wees aan hersiening soos en wanneer dit nodig mag wees.



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

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

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

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1. Introduction

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

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

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

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

2. Sector profile

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

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

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

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

and Struisbaai, in areas where the substrate consists of mud/shale. Most of the bays on the South coast are closed to trawling.

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

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

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

3. The medium-term rights allocation process

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

The "internal" transformation of the traditional companies, and the entry of black-owned and managed companies since 1992, has resulted in a significantly improved transformation profile

in this fishery. The transformation profile of this fishery however remains below the industry average of 66%. Medium-term rights allocation records show that:

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

4. Over-arching sectoral objectives

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

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

5. Duration of rights

Having regard to –

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

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

6. New Entrants

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

7. Evaluation criteria

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

7.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted rights. Current natural person right holders must apply in the form of a close corporation or company and will be treated as medium term right holder applicants provided that they comply with the guidelines set out in the General Policy.

- (b) **Compliance:** If a right holder applicant, or its members, directors or controlling shareholders have been convicted of an offence in terms of the MLRA, the applicant will not be allocated an inshore trawl right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to a right holder applicant if the applicant, or its members, directors or controlling shareholders, that have had any fishing right cancelled, suspended or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 1 of 1998 or the MLRA.

Decisions may be reserved on applications if a right holder applicant (or its members, directors or controlling shareholders) are being investigated for breaches of the MLRA. A decision on such an application will be made after the completion of such an investigation.

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

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

7.2 Comparative balancing criteria

Right-holder applicants and potential new entrants will be evaluated in terms of the following balancing criteria, which will be weighted in order to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the "transformation" criterion.

(a) Transformation

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

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

(b) Investment in the fishery

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

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

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

(c) Performance

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

(d) Value-Adding and Enterprise Development

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

(e) Jobs

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

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

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

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

(f) By-catch

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

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

(g) Local Economic Development

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

(h) Non-payment of Fish Levies

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

(i) Compliance

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

(j) Environmentally sustainable practices

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

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

7.3 Quantum criteria

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

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

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

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

8. Suitable vessels

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

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

9. Multi-sector involvement

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

10. Application fees and levies

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

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

The annual levies payable with effect from 1 January 2006 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

11. Management measures

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

11.1 Ecosystem approach to fisheries management

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

11.2 Fisheries management areas

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

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

11.3 Consolidation of participants

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

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

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

11.4 Vessels and fishing effort

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

11.5 Monopolies

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

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

11.6 TAC ratios– Trawl:line

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

12. Performance measuring

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

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

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

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

13. Observer programme

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

14. Permit conditions

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



DEPARTEMENT VAN OMGEWINGSKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

**BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN
KOMMERSIËLE VISVANGREGTE IN DIE STOKVIS
KUSTREILVISSERY : 2005**

**HIERDIE BELEID MOET SAAMGELEES WORD MET DIE
ALGEMENE BELEID AANGAANDE DIE TOEKENNING EN
BESTUUR VAN LANGTERMYN KOMMERSIËLE VISVANGREGTE:
2005 (beskikbaar by www.mcm-deat.gov.za)**

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1. Inleiding

Hierdie beleid vir die toekenning en bestuur van kommersiële visvangregte in die stokvis kustreilvisserij word uitgereik deur die Minister van Omgewingsake en Toerisme (die "Minister"). Hierdie beleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid").

Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die stokvis kustreilvisserij uiteen te sit. Baie van hierdie oorwegings is nie nuut nie. Hulle is in die verlede deur die Minister en gedelegeerde owerhede van die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement") gebruik by die toekenning van regte en tot 'n mate beliggaam hierdie beleid sodanige oorwegings.

Sekere bestuursbeleidsrigtings vir die periode na die toekenning van regte verskyn ook in hierdie beleid. 'n Bestuurshandleiding vir die stokvis kustreilvisserij sal met al die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die bestuursmetodes en -prosedures vir die vissery uitstippel.

Die Minister is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte van die stokvis kustreilvisserij toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne, 18 van 1998 (die "WLMH") aan 'n senior beampte van die Departement te deleger. Hierdie beleid sal die gedelegeerde owerheid lei in sy besluite oor aansoeke in hierdie vissery.

2. Sektorale profiel

Sedert sy aanvang in 1890's is die bodemtreilvisserij (beide aanlandig en aflagdig) Suid Afrika se belangrikste vissery en vir die laaste dekade is dit verantwoordelik vir ongeveer die helfte van al die rykdom wat geskep word deur kommersiële visserye. Alhoewel die aanlandige kustreilvisserij teen die begin van die twintigste eeu gepionier is, was dit eers teen die 1950's dat die vissery kommersiële van aard geword het toe kleiner treilers die vissery binnegekom het, om stokvis en die meer waardevolle Agulhas tongvis (*Austroglossus Pectoralis*) te teiken.

Die kustreilvisserij leef voort as 'n "dual-kwota" visserij wat beide vlakwater stokvis (*Merluccius capensis*) asook Agulhas tongvis teiken.

Soos in die geval van die diepseetreilvisserij, was die kustreilvisserij ook grotendeels ongereuleerd tot 1978, en is deelnemers nie tot 'n maksimum vangs beperk nie. In 1978 is die bodemtreilvisserij formeel verdeel in aanlandige en afluandige sektore, 'n globale TTV is ingestel en is verdeel tussen die twee sektore. 'n Jaarlikse tongvis TTV is ook vasgestel. Individuele kwotas is in 1982 ingestel. Sedertdien is 'n jaarlikse TTV vasgestel vir beide Kaapse stokvisse asook vir Agulhas tongvis. Die kustreilvisserij is bestuur in terme van 'n tongvis TTV en 'n gedeelte van die stokvis TTV. Die sektorale toekenning van die globale stokvis TTV het merkwaardig stabiel gebly op ongeveer 6 persent.

Die Departement bestuur die kustreilvisserij as deel van 'n "stokvis kollektief". Ingevolge die WLMH stel die Minister van Omgewingsake en Toerisme jaarliks 'n "globale" TTV vir stokvis (gekombineerd vir beide spesies). Voor die verdeling tussen die stokvisvangsektore word daar uit die globale stokvis TTV 'n reserwe opsygesit om byvangste te dek in die maasbanker visserij asook, tot en met 2004, 1000 ton vir buitelandse visvangste. Huidiglik word die globale stokvis TTV (na aftrekking van die maasbanker byvangs reserwe) verdeel tussen diepseetreil, kustreil, stokvislanglyn- en stokvishandlynvisserij sonder dat die verdeling van die stokvis spesies tussen die verskillende sektore in ag geneem word. In terme van daardie reëling word 83% toegeken aan die diepsee treilvisserij, 6% aan die kustreilvisserij en 10% word verdeel tussen die stokvislanglyn en stokvishandlyn. 'n Sektorale toekenningsproses wat die spesie wat in daardie sektor gevang word en die spesie se bydra tot die globale TTV, in ag neem, moet moontlik ontwikkel word ten einde ontginning van stokvis met die produktiwiteit van die twee spesies te paar. In terme van so 'n proses sal die sektorale toekenning van stokvis tot die stokvis kustreilvisserij slegs bepaal word deur die status van die vlakwater stokvisbron.

Kustreilgebeide is geleë tussen Kaap Agulhas in die weste en die Groot Keirivier in die ooste. Ten einde die kustreilgebiede te beskerm, mag vaartuie wat werksaam in die kustreilvisserij nie 30m in lengte oorskry nie en mag nie swaar treiltoerusting gebruik nie. Bykomend, mag vaartuie wat visvang op diepseetreilpermitte, nie visvang in water vlakker as 110m nie of binne 20 seemyl vanaf die kus nie, watter een ookal verder van die kus is. Kustreilvaartuie word egter nie verhoed om in water dieper as 110m vis te vang nie. Treil vir stokvis vind plaas in die tradisionele "kusgebied", m.a.w. in water vlakker as die 110m isobaar en op die twee afluandige

visvanggebiede. Treil vir Agulhas tongvis vind plaas in water met dieptes van 50m-80m, hoofsaaklik tussen Mosselbaai en Struisbaai in gebiede waar die substraat uit modder en leiaarde bestaan. Die meerderheid van die baaie in die suidkus is geslote vir treilvangs.

Die kustreilvisserij onderhou regstreekse werkseleenthede vir ongeveer 1 100 persone. Ongeveer 90 persent van hierdie werkseleenthede word deur swart persone gevul, en 42 persent deur vroue. Werksomstandighede in die kustreilvisserij word oor die algemeen beskou as beter as dié wat ander visserij geld. Die meeste werknemers word dwarsdeur die jaar voltyds in diens met vasgestelde salarisse en diensvoordele. Die gemiddelde jaarlikse inkomste vir see-bemanning beloop R35 000. Werkers wat op die see uitgaan word geregistreer by die bedingingsraad vir die Suid-Afrikaanse Visvangnywerheid wat twee kamers het: een vir die diepsee treilvisserij en een vir die kustreilvisserij. Die Bedingingsraad stel basiese indiensnemingsvoorwaardes vir hierdie visserij.

Die kustreilvisserij is nie so kapitaal-intensief soos die diepsee treilvisserij nie, maar aansienlike beleggings in die vorm van vaartuie, prosessering- en bemarkingsinfrastruktuur is nietemin deur die bestaande deelnemers gemaak. Die totale waarde van bates in die visserij word op meer as R100 miljoen beraam. Die markwaarde van vangste geland is jaarliks ongeveer R60 miljoen werd.

Stokvisvoorraad word tans ooreenkomstig 'n konserwatiewe strategie bestuur. Die TTV vir stokvis is jaarliks sedert 2003 verminder en verdere vermindering mag nodig wees.

3. Die proses van medium-termyn regtetoekenning

Soos in die geval van ander kommersiële visserij in Suid-Afrika is die kustreilvisserij histories deur 'n handjievol groot maatskappye in wit besit oorheers. Die invoering van die TTV in 1978 het kleiner maatskappye uit die visserij gedwing. In 1992 het elf groot maatskappye 35 treilers in die visserij bedryf. Teen 2004 het 16 maatskappye egter deelgeneem. Ewe belangrik is die feit dat in 1992 die verhouding tussen die kleinste en die grootste kwota 1:45 was. Tien jaar later is die verhouding tot 1:26 verminder. Die verskil tussen die kleinste en die grootste toekennings het kleiner geword.

Die "interne" transformasie van die tradisionele maatskappye en die toetrede van maatskappye in swart besit en onder swart bestuur sedert 1992, het gelei tot 'n aansienlike verbeterde transformasieprofiel in hierdie visserij. Die transformasie profiel van die visserij bly egter onder die industrie gemiddeld van 66%. Die medium-termyn toekenningsrekords dui daarop dat:

- 50 persent van die kustreilvisserij tans in swart besit is;
- 69 persent van regtehouers is klein of medium grote ondernemings;
- 37 persent van die stokvis TTV en 46 persent van die tongvis TTV word deur maatskappye in swart besit gehou (in 1992 was dit een persent).

4. Oorkoepelende sektorale doelwitte

Die oorkoepelende sektorale doelwitte met die toekenning van langtermyn-visvangregte in hierdie visserij is om:

- die transformasieprofiel van die kustreilvisserij merkbaar te verbeter, in besonder deur swart eienaarskap van die TTV te vermeerder en deur die TTV te herverdeel ten einde regtehouers met kleiner toekennings in hierdie visserij, wat getransformeer is en goed presteer het, te ondersteun;
- 'n omgewing te skep wat belegging aanlok en werkskepping stimuleer;
- die nadelige uitwerking van treilvisvang, soos skade aan seebeddens te verminder, en om byvangste te verminder; en
- die ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die visserij te ondersteun.

5. Tydsduur

Met inagneming van -

- die transformasieprofiel van die visserij;
- die feit dat die huidige kustreilvloot verouderd is en vervang moet word;
- die behoefte om die huidige ekonomiese stabiliteit in die visserij in stand te hou; en

- die feit dat die aanlandige stokvis- en tongvisbronne goed bestuur word ingevolge betroubare en huidige data,

sal kommersiële visvangregte vir 'n tydperk van 10 jaar toegeken word (1 Januarie 2006 tot en met 31 Desember 2015). Die Departement sal gereeld regtehouers evalueer teen voorafbepaalde prestasiekriteria (sien paragraaf 12 hieronder).

6. Nuwe inkomelinge

Stokvis en tongvisbronne word tans bestuur volgens 'n herstelplan omdat daar tekens is dat hierdie voorrade afneem. Boonop het die inname van nuwe inkomeling-aanzoekers in die vissery tussen 1992 en 2002 tot gevolg gehad dat stokvistoekenning van gemiddeld 900 ton na 600 ton per regtehouer afgeskaal is. Tongvistoekenning is soortgelyk van 'n gemiddeld van 80 ton tot 50 ton per regtehouer verminder. Nuwe inkomelinge mag toegelaat word maar die totale aantal deelnemers in die vissery sal nie vermeerder word nie.

7. Evaluasiekriteria

Aansoeke sal volgens 'n stel "uitsluitingskriteria" gesif word. Nuwe inkomeling aanzoekers en bestaande regtehouer aanzoekers sal daarna apart evalueer word in terme van 'n stel gelaai "vergelijkende balanseringskriteria". 'n Afsnypunt sal dan bepaal word om die suksesvolle aanzoekers te bepaal. 'n Gedeelte van die TTV sal dan aan elke suksesvolle aanseeker toegeken word in terme van 'n stel "kwantumkriteria".

7.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid, aangaande die indiening van die aansoeke en wesentlike tekortkominge, sal die gedelegeerde owerheid aanseekers uitsluit wat versuim om aan die volgende vereistes te voldoen:

- (a) **Vorm van aanseeker:** Slegs aansoeke van entiteite geïnkorporeer ingevolge die Wet op Beslote Korporasies, Wet 69 van 1984 en die Maatskappywet 61 van 1973 sal oorweeg word. Regte sal nie toegeken word aan natuurlike persone (d.w.s. individue of eenmansake) nie. Natuurlike persone wat bestaande regtehouers is moet aansoek doen in die vorm van 'n beslote

korporasie of maatskappy en sal as medium termyn regtehouers behandel word indien hulle aan die riglyne uiteengesit in die Algemene Beleid voldoen.

- (b) **Wetsnakoming:** Indien 'n regtehouer aansoeker of sy lede, direkteure of beherende aandeelhouders skuldig bevind is aan 'n misdryf ingevolge die WLMH nie, sal 'n reg nie aan die aansoeker toegeken word nie. Dit sluit nie die betaling van 'n skulderkenningsboete in nie. Regte sal ook nie toegeken word aan 'n regtehouer-aansoeker indien die aansoeker of sy lede, direkteure of beherende aandeelhouders se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH of daar op hul bates beslag gelê is in terme van die Wet op die Voorkoming van Georganiseerde Misdaad 121 van 1998 of die WLMH nie.

Besluite mag gereserveer word oor die aansoeke van regtehouers wat ondersoek word vir oortredings van die WLMH. 'n Besluit oor so 'n aansoek sal geneem word na afhandeling van die ondersoek.

Die Departement vereis dat elke regtehouer 'n heffing betaal op die geteikende vis wat geland word. Regtehouers wat vangste onder-gerapporteer het ten einde, *inter alia*, die betaling van heffings te vermy sal uitgesluit word. Regtehouers wat nie heffings betaal het nie sal gepeenaliseer word in die vergelykende balanseringsproses soos hieronder uiteengesit. Sou sodanige aansoeker egter nietemin vir 'n reg kwalifiseer, sal 'n visvangpermit nie uitgereik word nie alvorens die uitstaande gelde aan die Departement betaal is nie.

- (c) **Papierkwotas:** Papierkwotas soos gedefinieer in die Algemene Beleid, sal uitgesluit word.
- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal moet aantoon dat hulle 'n reg van toegang tot 'n geskikte vaartuig het (sien paragraaf 8 hieronder).

7.2 Vergelykende balanseringskriteria

Aanzoekers wat regte hou, asook potensiële nuwe inkomelinge, sal evalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal. Die kriteria hieronder uiteengesit moet saamgelees word met die ooreenstemmende kriteria in die Algemene beleid vir verdere detail. Dit is in besonder van toepassing op "transformasie" kriterium.

(a) Transformasie

Een van die doelwitte met die toekenning van langtermyn visvangregte in hierdie vissery is om die huidige transformasievlakke te verbeter. Soos in die Algemene Visvangbeleid bepaal, sal aanzoekers evalueer word en sal punte toegeken word op grond van -

- Die persentasie swart en vroue eienaarskap en swart en vroue verteenwoordiging op top salarisvlakke, direksie en senior beampte en bestuursvlakke;
- Of werknemers (anders as top salaristrekkers) voordele trek uit 'n werknemeraandeleskema;
- Regstellende aankope;
- Nakoming van die Wet op Diensbillikheid 55 van 1998 en die verteenwoordiging van swart persone en vroue op die verskillende diensvlakke onder senior beampte en bestuursvlakke. Die gedelegeerde owerheid mag ook die verskil in besoldigingsvlakke tussen die hoogste en laagste betaalde werknemers in ag neem.
- Nakoming van wetgewing oor vaardigheidsontwikkeling en die bedrae spandeer op die opleiding van swart persone en deelname aan leerskapprogramme; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die visserij

Met betrekking tot bestaande regtehouers, sal die gedelegeerde owerheid die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie en ander vaste bates. Met betrekking tot beleggings in vaartuie sal beleggings in die vorm van aandeelhouing ook in aanmerking geneem word. Regtehouer aansoekers sal nie beloon word vir die sluit van voorwaardelike koop-ooreenkomste vir vaartuie nie.
- Beleggings in prosessering en bemarkingsinfrastruktuur. Die gedelegeerde owerheid aansoekers mag beloon wat in stokvis- en tongvisprosesseringsfabrieke en bemarkingsinisiatiewe belê het.

Wat nuwe inkomeling aansoekers betref, sal die gedelegeerde owerheid oorweging gee aan beleggings gemaak in ander sektore in die vorm van vaartuie, vaste bates, prosesserings- en bemarkingsinfrastruktuur. Daar sal van alle nuwe inkomeling aansoekers vereis word om aan te toon dat hulle die kennis, vaardigheid en kapasiteit het ten einde aan die stokvis kustreilvisserij deel te neem.

(c) Prestasie

Regtehouers wat sonder goeie rede meer of minder gevang het (met meer as 10% van toekennings) oor die medium termyn period sal penaliseer word. Finansiële prestasie sal gemeet word soos aangedui in die Algemene Visserijbeleid.

(d) Waardetoevoeging en ondernemingsontwikkeling

Die gedelegeerde owerheid mag oorweging skenk aan ondernemingsontwikkeling en aansoekers se vermoë om waarde toe te voeg tot stokvis en tongvis deur middel van prosessering.

(e) Werksgeleenthede

Die stokvis kustreilvisserij voorsien ongeveer 1 100 werksgeleenthede. Salarisse vir seevarende werknemers beloop jaariks gemiddeld R35 000. Die meeste werknemers word voltyds in diens geneem met voordele soos mediese fonds en pensioen. Billike arbeidspraktyke word oor die algemeen gehandhaaf.

Werkskepping en die vermeerdering van werksgeleenthede as gevolg van die toekenning van mediumtermynregte mag beloon word, en in besonder aansoekers wat hulle werknemers voorsien het met—

- Voltydse werk;
- Mediese fonds en pensioen; en
- Veilige werksomstandighede.

Werksgeleenthede geskep per tonnemaat vis toegeken gedurende die medium-termyn toekenningsproses sal bepaal word en mag in ag geneem word.

(f) Byvangste

Die volume byvangste in die stokvis kustreilvisserij bly 'n bron van kommer vir die Departement. Die teikening hoë waarde byvangspesies met soos koningklip (*Genypterus capensis*) en monnikvis ('Monk Fish') (*Lophius vomerinus*) is besonder kommerwekkend. Huidige vangskoerse dui daarop dat vangste vir beide spesies bo volhoubare vlakke is. Koningklip-talrykheid aan die suidkus is veral onder druk.

Die Departement het die maksimum byvangperk vir koningklip op 3000 ton per jaar vasgestel en dié van monnikvis op 7000 ton. Hierdie byvangstoegewings is op die hele stokvisvisserij van toepassing. Daar sal vereis word van voornemende aansoekers om aan te toon watter byvangsmitigasie en verminderingsmaatreëls hulle in werking gestel het of in die geval van nuwe inkomeling aansoekers, in gaan investeer ten einde te verseker dat aan bogenoemde byvangsbeperkings voldoen word.

(g) Plaaslike ekonomiese ontwikkeling

Die gedelegeerde owerheid mag in ag neem of aansoekers, veral kleiner regte houers en nuwe inkomeling aansoekers, gekies het om hulle vangste te land en te laat prosessee by sentrums buite die groot metropolitaanse gebiede soos Kaapstad en Port Elizabeth. Indien die gedelegeerde owerheid positief punte toeken aan hierdie aansoekers, mag dit nie lei tot die penalisering van groter stokvis kustreilvangs regtehouers wat wesentlik beleggings gemaak het in prosessering- en bemarkingsfasiliteite in Kaapstad en Port Elizabeth nie.

(h) Nie-betaling van heffings

Regtehouer aansoekers sal penaliseer word as hul heffings agterstallig is vir 'n tydperk langer as 60 dae is op die datum van aansoek.

(i) Wetsnakoming

Indien die aansoeker, sy lede of direkteure of beherende aandeelhouders skulderkenningboetes betaal het vir oortredings van die WLMH, die wet se regulasies of permitvoorwaardes sal die aansoeker penaliseer word.

(j) Omgewingsvolhoubare praktyke

Dit word erken dat treilvangs skade aan die seebed berokken. Tot op datum is daar geen afdoende data wat die omvang van die skade aandui wat veroorsaak word nie. Die gedelegeerde owerheid, in die toepassing van die versigtigheidsbeginsel, sal in ag neem of 'n aansoeker van voornemens is, of reeds-

- skade aan die seebed te verminder; en
- meer energie en brandstof doeltreffend te wees (ook van toepassing op prosesseringsfabrieke).

7.3 Kwantumkriteria

In hierdie visserij sal die meganisme vir die toekenning van kwantum die onderwerp wees van verdere konsultasie met aansoekers nadat die aansoeke in die visserij

oorweeg is en die suksesvolle aansoekers geïdentifiseer is. Onderhewig aan die uitkoms van die konsultasieproses, sal die volgende drie beginsels toegepas word met betrekking tot die toekenning van kwantum.

Eerstens, die toekenning van kwantum aan suksesvolle medium-termyn regtehouers sal bepaal word met verwysing na kwantum gehou deur regtehouers in 2005.

Tweedens, die gedelegeerde owerheid moet poog om ten minste 10% (tien persent) van die TTV te herverdeel aan klein besighede en regtehouers met klein toekennings, indien hierdie entiteite voldoende getransformeer is en goed presteer het gedurende die medium-termyn proses.

Derdens, en bykomend tot die bogenoemde twee beginsels, sal die gedelegeerde owerheid by magte wees om kwantum toe te ken gebaseer op kriteria wat daarop gemik is om die oogmerke van hierdie beleid te bereik, soos transformasie en prestasie. Hierdie kriteria moet ontwerp word op 'n wyse wat moet verseker dat alle suksesvolle aansoekers, afgesien die groter van hulle vorige toekenning, daarby kan baat vind indien hulle aan die kriteria voldoen.

8. Geskikte vaartuie

'n Geskikte vaartuig vir die kustreilvisserij is 'n vaartuig wat-

- 'n maksimum SAMVV-geregistreerde lengte van ongeveer 30 meter het;
- Toegerus is met 'n werkende vaartuigmoniteringstelsel.
- 'n maksimum perdekrag van 750 het; en
- toegerus is om tongvis en stokvis te teiken op 'n diepte van nie meer as 110m nie.

9. Multi-sektorale betrokkenheid

Regtehouers in die kustreilvisserij word nie verhinder om regte in enige ander visserij in Groep A en B visserij te hou nie. Regtehouers in die kustreilvisserij (insluitende hulle lede,

beherende aandeelhouders en lede van hulle uitvoerende bestuurspan) sal nie toegelaat word om kommersiële visregte in Groepe C en D te hou nie. Dieselfde geld vir tradisionele lynvis.

10. Aansoekgelde en heffings

Die aansoekgelde vir hierdie vissery sal bepaal word met inagneming van:

- Die koste van die hele regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met ingang 1 Januarie 2006 betaalbaar is, sal bepaal word na oorlegpleging met regtehouers. Die heffings betaal sal deur die Departement gebruik word vir die mitigasie van jaarlikse kostes van bestuur, wetsnakoming en navorsing.

11. Bestuursmaatreëls

Die bestuursmaatreëls wat hieronder bespreek word weerspieël sommige van die Departement se hoofvoornemens vir die bestuur van hierdie vissery nadat regte toegeken is.

11.1 Ekosisteembenadering tot bestuur van visvangvissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die bestuur van visserye ("EBV"). 'n Ekosisteembenadering tot visserybestuur is 'n holistiese en geïntegreerde beleid wat erken dat visvang en verwante aktiwiteite op land die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die stokvis kustreilvissery, is nie daarop gerig om 'n beleidsverklaring te voorsien oor EBV in die stokvis kustreilvissery nie. Die EBV in die stokvis kustreilvissery sal verder uitgestippel word in die Bestuurshandleiding vir die stokvis kustreilvissery. Suid Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserye.

11.2 Visserybestuursgebiede

Die stokvis kustreilvisserij teiken twee soorte stokvis en Agulhas tongvis binne 'n betreklik klein mariene gebied. Die Departement is bekommerd dat die intensiewe teiken van stokvis in hierdie gebied nie-volhoubare druk kan plaas op lynvissoorte soos kabeljou en koningklip. Die Departement is ook van voornemens om die deel van visvanggebiede deur stokvistreil- en stokvis-langlynvisserij te verminder.

Artikel 15 van die Wet op Mariene Lewende Hulpbronne maak voorsiening vir die verklaring van visserybestuursgebiede. Die Departement sal oorweeg om sodanige bestuursgebiede te verklaar om die byvangste van veral kabeljou en koningklip te probeer verminder en om die potensiële gebruikerskonflik tussen langlynvisserij en treilvisserij aan te spreek.

11.3 Konsolidasie van deelnemers

Na die toekenning van kommersiële visvangregte vir 10 jaar in hierdie vissery, sal die Departement die konsolidasie van die aantal regtehouers wat aktief is in die vissery fasiliteer, veral waar:

- Regtehouers dieselfde aandeelhouers, kantore of bestuurspan deel, of
- Kleiner regtehouers verkies om hul sakebedrywighede te konsolideer.

Die konsolidasie van regtehouers is egter onderworpe aan die Departement se benadering tot monopolieë (sien paragraaf 11.5).

11.4 Vaartuie en vangspoging

Daar is tans 35 kustreilvaartuie in Suid-Afrikaanse waters bedrywig. Die meerderheid hiervan is ouer vaartuie wat vervang moet word. Opgradering van die vloot mag 'n verhoging in visvangseffektiwiteit tot gevolg hê. Die Departement sal die bykomende vangspoging as gevolg van verdere en nuwe vaartuie in die vloot ingebring word met sorg evalueer. Regtehouers sal nie toegelaat word om vaartuie te gebruik wat in staat is om baie meer vangspoging te ontplooi as wat hulle toekennings nie. Verder mag die

Departement die Bedryfsliggaam van die Visvangsektor oorleg pleeg in verband met aansoeke om verdere of nuwe vaartuie in die vissery in te bring.

11.5 Monopolieë

Terwyl die Departement konsolidasie van regtehouers in hierdie vissery sal aanmoedig, is die Departement gekant teen monopolieë wat tot nadeel van die kleiner regtehouers kan werk.

Op hierdie stadium sal die Departement nie 'n maksimum drempel van die TTV wat enige enkele regtehouer mag hou of beheer instel nie, maar sal monitor of enige groot regtehouers op 'n wyse optree wat strydig is met billike mededingingspraktyke.

11.6 TTV-verhoudings - treilvangsvissery : langlynvissery

Die huidige TTV verhouding van treilvissery : langlynvissery sal grotendeels behou word. Die verhouding mag egter hersien word indien verdere data oor die relatiewe impak van die treil en langlyn beskikbaar word.

12. Prestasiemeting

Die Departement sal 'n aantal prestasiemetingoefeninge instel vir die duur van die kommersiële visvangregte. Daar word beoog om die prestasiemetingoefening na twee jaar uit te voer en dan elke drie jaar daarna.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers na die toekenning van kommersiële visvangregte gemeet sal word sal finaliseer na die toekenning van kommersiële visvangregte, en na oorlegpleging met regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie, fabriek en toerusting;
- volhoubare benutting, en in besonder die vermindering van byvangste en die ekologiese impak van treilvisvangs;
- nakoming van toepaslike wette en regulasies.

Die oogmerk met prestasie-meting is om te verseker dat die doelstellings van die vissery bereik word en dat bestuursmetodologie en prosedures geskik is en op datum bly vir die vissery.

13. Waarnemerprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassings-doeleindes in te sluit. Die Departement sal verder die dekking van waarneming van hierdie vissery progressief uitbrei. Daar sal van regtehouers verwag word om die koste van die waarnemingsproses te dra.

14. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery sal jaarliks uitgereik word. Die permitvoorwaardes sal vasgestel word na konsultasie met regtehouers in hierdie vissery en sal onderworpe wees aan hersiening soos en wanneer dit nodig mag wees.



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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE KWAZULU-NATAL
PRAWN TRAWL FISHERY: 2005**

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

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1. Introduction

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

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

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

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

2. Biology and resource dynamics

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

the first quarter of the following year and grow into juveniles. Juvenile prawns move out of estuaries and recruit onto the mud banks, where they grow to maturity and reproduce, thus completing the life cycle.

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

3. Sector profile

The KZN prawn trawl fishery is based in Kwazulu-Natal ("KZN") and consists of two components: an inshore fishery (5m to 40m depth) on the Tugela Bank and at St Lucia in an area of roughly 500 square kilometres; and an offshore fishery (100m to 600m depth) extending from Cape Vidal in the north to Amanzimtoti in the south, covering approximately 1 700 square kilometres along the edge of the continental shelf.

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

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

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

The sector is capital-intensive and its infrastructure, marketing and product distribution are dominated by established companies. The fishery requires specialised trawling vessels and equipment and is suitable for commercial fishing only. Fishing grounds are on the South African continental shelf and no foreign fishing vessels are allowed. Vessels are *ex side* trawl vessels trawling over the stern with a *single net boom* vessels trawling with a single or with twin nets per boom, and *stern* trawlers operating with single, twin or triple nets over the stern. Trawl net sizes range from 25- to 72-metre footrope length, with a minimum of 60mm mesh size measured from knot to knot. Trawling takes place on a 24-hour basis, at speeds of two to three knots and an average drag duration of four hours. Trawlers carry about 15 crew and remain at sea for two to three weeks at a time.

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

Inshore trawling is seasonal, with good catches made between January and March off St Lucia, and from March to September on the Tugela Bank. Offshore trawling takes place year-round. The boundary between the inshore and offshore fisheries is situated seven nautical miles from the shore between the St Lucia lighthouse and Zinkwazi.

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

4. The Medium-term rights allocation process

Fishing rights were allocated in 2001 for a medium-term period of four years. Rights are currently held by five fishing companies (with a total of eight vessels), of which three right-

holders (with five vessels) may fish in both the inshore and offshore fisheries, and the other two right-holders (with three vessels) are restricted to the offshore fishery only.

The allocation records show that:

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

5. Over-arching sectoral objectives

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

- Notably improve the transformation profile of the KZN prawn trawl fishery;
- Ensure that steps are taken to mitigate against avoidable by-catch, particularly catches of linefish species that are listed on recreational and prohibited species lists;
- Ensure that, where possible, by-catches are landed and resources are not wasted;
- Create an environment that attracts investment and stimulates job creation;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

Transformation will be a particularly important consideration for the allocation of long term commercial fishing rights in this fishery. Although it is probable that the current number of vessels in the fishery (eight) will be maintained, the need for transformation will mean that it may not necessarily be existing right-holders that will be granted rights. Existing right holders may be replaced with new entrant applications.

The rate of by-catch and the effect of prawn trawling on the benthic habitat are issues of great concern and the delegated authority will reward applicants in this fishery who are able to indicate their intentions to introduce mitigating measures in this regard. The Department will

increasingly insist that by-catch is landed, that resources are not wasted, and that right-holders seek markets for by-catch. However, the sale of by-catch that comprises linefish species that are listed on recreational and prohibited species lists will not be permitted.

6. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the capital intensity of the fishery;
- the need to maintain the economic stability and increase the competitiveness of the fishery; and
- the lack of scientifically reliable resource assessments due to the high number of species involved in this fishery, together with a very high by-catch percentage,

commercial rights will be allocated for a period of eight years (1 January 2006 to 31 December 2013). The Department will regularly evaluate right holders against predetermined performance criteria (see paragraph 14 below).

7. New entrants

The number of participants will not be increased in this fishery. New entrant applicants may be preferred over existing right-holders, particularly if their inclusion will assist in the transformation of the KZN prawn trawl fishery.

8. Evaluation criteria

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

8.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Rights will only be granted to entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Rights will not be granted to natural persons (i.e. individuals or sole proprietors) and trusts.
- (b) **Compliance:** If a right holder applicant, or its members, directors or controlling shareholders have been convicted of an offence in terms of the MLRA, the applicant will not be allocated a KZN Prawn trawl right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to a right holder applicant if the applicant, or its members, directors or controlling shareholders that have had a fishing right cancelled, suspended or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA.

Decisions may be reserved on applications if a right holder applicant (or its members, directors or controlling shareholders) are being investigated for breaches of the MLRA. A decision on such an application will be made after the completion of the investigation.

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

- (c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (see paragraph 9 below).

8.2 Comparative balancing criteria

Right-holder applicants and new entrant applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the "transformation" criterion.

(a) Transformation:

As stipulated in the General Fisheries Policy, applicants will be assessed and scored on –

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

(b) Investment in the fishery

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

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered;
- Investments in processing and marketing infrastructure.

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

(c) Jobs

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

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

(d) Performance

Financial performance will be measured, as indicated in the General Policy. In addition, the delegated authority will have regard to the applicant's fishing performance, where possible, particularly with respect to the number of days

spent fishing in South African waters as opposed to fishing in Mozambique or Tanzania.

(e) Payment of fish levies

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

(f) Compliance

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

(g) By-catch

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

8.3 Quantum allocation

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

9. Suitable vessels

The KZN prawn trawl fishery is a specialised fishery and applicants must have access to large ocean-going fishing vessels that are rigged to trawl for prawns. Fishing should be by bottom trawling with single net stern, or boom-operated twin or triple nets. Trawl nets shall have a

maximum footrope length of 72 metres with a minimum of 60mm mesh size measured from knot to knot. Vessels must be fitted with functioning vessel monitoring systems.

10. Multi-sector involvement

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

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

11. Landing sites

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

12. Application fees and levies

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

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

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

13. Management measures

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

13.1 Ecosystem approach to fisheries management

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

13.2 By-catch

Bycatch in the KZN prawn trawl fishery is the subject of several research projects which have focused on the quantification of by-catch species; the impacts on linefish species and ecosystems; the effects of excluder devices on by-catch rates; and the impact of a closed fishing season in the inshore fishery. All retained (but not discarded) by-catch species and quantities must be declared by skippers. No spotted grunter (*Pomadasys commersonii*) that is caught by the KZN prawn trawl fishery may be sold. Sector specific regulations regarding discarded by-catch will follow the completion of the research projects.

13.3 Vessels

Eight vessels are presently authorised to fish in this sector. The current TAE (in terms of vessels and participants) has been maintained for a decade. However, only 50 to 60 percent of the available effort is applied in KZN; the remainder is latent. Some of the

vessels fish in Mozambique for most of the year. No more than eight vessels will be permitted to participate in this sector.

13.4 Nationality of catch

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

13.5 Precautionary principle and sustainability

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

The Department is not in favour of increasing fishing effort in the inshore area because of large by-catches of juvenile fish. For this reason, the Department does not intend merging the inshore and offshore components of this fishery.

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

14. Performance measuring

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

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

- transformation;
- investment in vessels and gear;
- sustainable utilisation, and in particular the ecological impacts of trawl fishing;
- compliance with applicable laws and regulations.

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

15. Observer programme

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

16. Permit conditions

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



**DEPARTEMENT VAN OMGEWINGSKE EN TOERISME
TAK MARIENE- EN KUSBESTUUR**

**BELEID VIR DIE TOEKENNING EN BESTUUR VAN KOMMERSIËLE
VISVANGREGTE IN DIE KWAZULU-NATAL GARNAAL
TREILVANGSVISSERY: 2005**

**HIERDIE BELEID MOET SAAM GELEES WORD MET DIE
ALGEMENE BELEID OOR DIE TOEKENNING EN BESTUUR VAN
LANGTERMYN KOMMERSIËLE VISVANGREGTE: 2005
(beskikbaar by www.mcm-deat.gov.za)**

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1. Inleiding

Hierdie beleid vir die toekenning en bestuur van kommersiële visvangregte in die Kwazulu-Natal garnaal-treilvangvisserij (hierna ook verwys na as die "KZN garnaal-treilvisserij") word uitgereik deur die Minister van Omgewingsake en Toerisme ("die Minister"). Hierdie beleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid").

Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die KZN garnaal-treilvisserij uiteen te sit. Baie van hierdie oorwegings is nie nut nie. Hulle is in die verlede deur die gedelegeerde owerheid en Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement") gebruik by die toekenning van regte en tot 'n mate beliggaam hierdie beleid sodanige oorwegings.

Sekere bestuursbeleidrigtings vir die periode na die toekenning van regte verskyn ook in hierdie beleid. 'n Bestuurshandleiding vir die KZN garnaal-treilvisserij sal in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die bestuursmetodes en prosedures vir die bedryf uitstippel.

Die Minister is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte van die KZN garnaal-treilvisserij toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne, 18 van 1998 (die "WLMH") aan 'n senior beampte van die Departement te deleger. Hierdie beleid sal die gedelegeerde owerheid lei in die neem van besluite oor aansoeke in hierdie visserij.

2. Biologie en hulpbrondinamika

Wit garnale (*Penaeus indicus*), bruin garnale (*Metapenaeus monoceros*) en tiergarnale (*Penaeus monodon*) word op vlak modderbanke langs die noord-oostelike kus van Kwazulu-Natal gevind. Bamboe garnale (*Penaeus japonicus*) word ook per geleentheid getreil op die St Lucia-gronde. Hierdie garnaalspesies groei vinnig en het 'n lewensduur van ongeveer een jaar.

Eiers word op die abdomen van die vroulike gamale gedra. Larwes broei gedurende die tweede helfte van die jaar uit, en word deur die seestrome na die estuaria langs die KZN-kus gedra, waar hulle bly tot die eerste kwart van die volgende jaar en groei tot jongelinge. Jong gamale beweeg uit die estuaria tot op die modderbanke, waar hulle tot volwassenheid groei, voortplant en sodoende die lewensiklus voltooi.

Diepsee spesies sluit in pienk (mes) en rooi gamale (*Haliporoides triarthrus*) en *Aristaeomorpha foliacea*, langoustines (*Metanephrops mozambicus*), *Nephropsis stewartii*, rooikrap (*Chaceon macphersoni*) en diepsee kreef (*Palinurus delagoae*). Die lewensiklusse van hierdie spesies is uiteenlopend, maar sommige (soos kreef) groei stadig en leef lank, en wat hulle meer kwesbaar maak vir visvang. Daar is nie veel bekend omtrent die biologie van diepsee gamale en langoustines.

3. Sektorale profiel

Die KZN garnaal-treilvisserij is gebaseer in Kwazulu-Natal (KZN) en bestaan uit twee komponente: 'n aanlandige visserij (5m tot 40m diep) op die Tugela-oewer en by St Lucia in 'n gebied wat ongeveer 500 vierkante kilometer beslaan; en 'n aflandige visserij (100m tot 600m diep) wat van Cape Vidal in die noorde tot Amanzimtoti in die suide strek en 'n gebied van ongeveer 1 700 vierkante kilometer langs die rand van die vastelandsplat beslaan.

Tot die 1960's was treilvisvangs sporadies, maar daarna het die sektor tot soveel as 12 maatskappye en 21 vaartuie beslaan, waarvan talle ook in Mozambiek visvang. Gereelde statistiek is sedert 1988 ingesamel.

Vangste en vangskoerse van individuele spesies en groepe spesies wissel geweldig, soms as gevolg van visvangstrategie (die teiken van bepaalde spesies) eerder as wisselings in die talrykheid. Die talrykheid van vlakwater gamale hang af van reënvalpatrone en die uitwerking daarvan op die deurspoeling van die estuaria waar larwes en jong gamale ontwikkel. In die algemeen was daar in die afgelope twee dekades afnames in die vangst van wit gamale, pienk gamale, langoustines, kreef and rooikrap.

Die vissery word bestuur deur gebruik te maak van 'n strategie van Totale Ontplooide Vangspoging ("TOV") wat die aantal vaartuie beperk wat toegelaat word om vis te vang in die aanlandige en aflandige visvanggronde. 'n TOV van agt visvangpermitte is oor die afgelope dekade gehandhaaf.

Die sektor is kapitaal-intensief en die infrastruktuur, bemarking en produkverspreiding word gedomineer deur gevestigde maatskappye. Die vissery verg gespesialiseerde treilvangvaartuie en toerusting en is slegs geskik vir kommersiële visvangs. Visgronde is op die Suid-Afrikaanse vastelandsplat en geen buitelandse visvangvaartuie word toegelaat nie. Vaartuie is *ex sy*-treil vaartuie wat oor die agterkant treil met 'n enkelnet slagboom, of treil met 'n enkelnet of dubbelnet per slagboom, en *stern* treilers wat werk met 'n enkel, dubbel of trippelnet oor die agterkant. Treilernetgroottes wissel tussen 25 tot 72 meter voettoulengthes, met 'n minimum 60mm maasgrote, gemeet van knoop tot knoop. Treilvissery vind plaas op 'n 24-uur- basis, teen 'n spoed van tussen twee tot drie knope en 'n gemiddelde sleepduur van vier uur. Treilers word beman met ongeveer 15 bemanningslede en bly op die see vir twee tot drie weke op 'n slag.

Vangste (volgens massa) van die KZN-treilvissery bestaan uit sowat 20 persent teikenspesies, 10 persent gehoude byvangste en 70 persent verwerpte byvangste. Die byvangste wat behou word is sefalopode (seekat, inkvis en *cuttlefish*), weekdiere, en wesentlike hoeveelhede van verskeie visspesies. Die verwerpte byvangste (jong of klein vis, lae-waarde skaaldiere, elasmotakke en weekdiere) beloop ongeveer 1 000 tot 2 000 ton per jaar.

Aanlandige treilvissery is seisoengebonde, met goeie vangste tussen Januarie en Maart langs St Lucia, en van Maart tot September op die Tugela-oewer. Aflandige treilvissery vind regdeur die jaar plaas. Die grens tussen die aan- en aflandige vissery is sewe see-myl vanaf die kus, tussen die St Lucia vuurtoring en Zinkwazi.

Vangste word op see volgens grote gesorteer, gegradeer, verpak en bevries. Min waarde word op land toegevoeg. Beskeie kus-gebaseerde infrastruktuur, insluitende ankerplek, herverpakking, berging en bemarkingsgeriewe is in Durban geleë. Bevrore produkte word op

plaaslike markte verkoop. Die gelande vangste in die KZN garnaal vissery beloop ongeveer R21 miljoen per jaar.

4. Medium-termyn regtetoekenning

Visvangregte is in 2001 vir 'n medium-termyn tydperk van vier jaar toegeken. Regte word gehou deur vyf visvangmaatskappye (met 'n totaal van agt vaartuie), waarvan drie (met vyf vaartuie) geregtig is om beide in die aanlandige sowel as die afluandige vissery vis te vang, en die ander twee regtehouers (met drie vaartuie) tot afluandige vissery beperk word.

Die Departement se toekenningsrekords toon dat:

- 'n beraamde 22 persent van die deelnemers deur 'n meerderheid swart persone besit word;
- 30 persent onder swart bestuur is; en
- die sektor aan ongeveer 150 mense werk verskaf, waarvan 88 persent swart is.

5. Oorkoepelende sektorale doelwitte

Die oorkoepelende sektorale doelwitte met die toekenning van langtermynvisvangregte in hierdie vissery is om:

- die transformasieprofiel van die KZN garnaalvissery merkbaar te verbeter;
- te verseker dat stappe geneem word om vermybare byvangs te verminder, veral vangste van lynvisspesies wat gelys is as verbode en ontspanning spesies;
- te verseker dat, waar moontlik, byvangste aan land gebring word, sodat hulpbronne nie vernors word nie;
- 'n belegging- en werkskeppingsvriendelike omgewing te skep;
- die ekonomiese lewensvatbaarheid van die vissery te ondersteun;
- die omgewingsvolhoubaarheid van die vissery te verseker.

Transformasie sal 'n besondere belangrike oorweging wees by die toekenning van langtermyn-visvangregte in hierdie visserij. Alhoewel dit waarskynlik is dat die huidige aantal vaartuie in die visserij (agt) behou sal word, sal die behoefte aan transformasie beteken dat die regte nie noodwendig aan bestaande regtehouers toegeken sal word nie. Bestaande regtehouers mag met nuwe inkomelinge aansoekers vervang word.

Die koers van byvangste en die uitwerking wat garnaal-treilvisserij op die bentiese habitat het, bly 'n bron van groot kommer en die gedelegeerde owerheid sal aansoekers in die visserij beloon wat instaat is om hul voornemens aan te toon om mitigasiemaatreëls in hierdie verband in te stel. Die Departement sal toenemend vereis dat byvangste aan land gebring word, hulpbronne nie vermors word nie en dat regtehouers markte vir die byvangste soek. Waar die byvangste egter lynvis spesies insluit wat as verbode of vir ontspanning gelys is, sal die verkoop daarvan nie toegelaat word nie.

6. Tydsduur

Met inagneming van—

- die transformasieprofiel van die visserij;
- die kapitaal-intensiteit van die visserij; en
- die behoefte om ekonomiese stabiliteit in stand te hou en mededingingheid van die visserij te verhoog; en
- die gebrek aan betroubare wetenskaplike bronvasstellings, as gevolg van die groot aantal spesies betrokke in die visserij, gepaardgaande met 'n baie hoë by-vangs persentasie.

sal kommersiële visvangregte toegeken word vir 'n tydperk van agt jaar (1 Januarie 2006 to 31 Desember 2013). Die Departement sal gereeld regtehouers meet teen voorafbepaalde prestasiekriteria (sien paragraaf 14 hieronder).

7. Nuwe inkomelinge

Die aantal deelnemers sal nie vermeerder word in hierdie vissery nie. Nuwe inkomelinge mag bo bestaande regtehouers verkies word, veral indien hulle insluiting transformasie van die KZN garnaalvissery sal aanhelp.

8. Evalueringskriteria

Aansoeke sal volgens 'n stel "uitsluitingskriteria" gesif word en daarna oorweeg word in terme van 'n stel gelaaide "vergelykende balanseringskriteria". 'n Afsnypunt of rangorde sal dan vasgestel word om die suksesvolle aansoekers bepaal. 'n Gedeelte van die vangspoging sal dan toegeken word aan elke suksesvolle aansoeker.

8.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid, aangaande die indiening van aansoeke en wesentlike tekortkominge, sal die gedelegeerde owerheid aansoekers uitsluit wat versuim om aan die volgende vereistes te voldoen:

- (a) **Vorm van die aansoeker:** Regte sal slegs toegestaan word aan entiteite wat ingelyf is in terme van die Wet op Beslote Korporasies 69 van 1984 en die Maatskappyywet 61 van 1973. Regte sal nie aan natuurlike persone (d.w.s. individue of eenmansake) en trusts toegestaan word nie.
- (b) **Wetsnakoming:** Indien 'n regtehouer aansoeker of sy lede, direkteure of beherende aandeelhouders skuldig bevind is aan 'n misdryf ingevolge die WLMH, sal die aansoeker nie 'n reg ontvang nie. Dit sluit nie die betaling van 'n skulderkenningsboete in nie. Regte sal ook nie toegeken word aan 'n regtehouer-aansoeker indien die aansoeker of sy lede, direkteure of beherende aandeelhouders se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH of daar op hul bates beslag gelê is in terme van die Wet op die Voorkoming van Georganiseerde Misdaad 121 van 1998 of die WLMH nie.

Besluite mag gereserveer word oor die aansoeke van regte-houers wat ondersoek word vir oortredings van die WLMH. 'n Besluit oor so 'n aansoek sal geneem word na afhandeling van die ondersoek.

Die Departement vereis dat elke regtehouer 'n heffing betaal op die geteikende vis wat geland word. Regte houers wat vangste onder-gerapporteer het ten einde, *inter alia*, betalings van heffings te vermy sal uitgesluit word. Regtehouers wat nie heffings betaal het nie sal gepeenaliseer word in die vergelykende balanseringsproses soos hieronder uiteengesit. Sou sodanige aansoeker egter nietemin vir 'n reg kwalifiseer, sal 'n visvangpermit nie uitgereik word nie alvorens die uitstaande gelde aan die Departement betaal is nie.

- (c) **Papierkwotas:** Papierkwotas soos uiteengesit in die Algemene Beleid, sal uitgesluit word.
- (d) **Toegang tot geskikte vaartuig:** Aansoekers sal moet aantoon dat hulle 'n reg van toegang tot 'n geskikte vaartuig het (sien paragraaf 9 hieronder).

8.2 Vergelykende balanseringskriteria

Aansoekers wat regte hou, asook potensiële nuwe inkomelinge, sal evalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal. Die kriteria hieronder uiteengesit moet saamgelees word met die ooreenstemmende kriteria in die Algemene beleid vir verdere detail. Dit is in besonder van toepassing op die "transformasie" kriterium.

(a) Transformasie:

Soos vasgestel in die Algemene Visserybeleid, sal die aansoekers evalueer word en punte toegeken word volgens –

- Die persentasie swart en vroue eienaarskap en swart en vroue verteenwoordiging op top salarisvlakke, die direksie en senior beampte en bestuursvlakke;
- Of werknemers (anders as top salaristrekkers) voordeel trek uit 'n werknemeraandeleskema;
- Regstellende aankope;
- Nakoming van die Wet op Diensbillikheid 55 van 1998 en die verteenwoordigheid van swart persone en vroue op die verskillende diensvlakke onder senior beampte en bestuursvlak. Die gedelegeerde owerheid mag ook die verskil in besoldigingsvlakke tussen die hoogste en laagste betaalde werknemers in ag neem.
- Nakoming van wetgewing oor vaardigheidsontwikkeling en die bedrae spandeer op die opleiding van swart persone en deelname aan leerskapprogramme; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die visserij

Met betrekking tot bestaande regtehouers, sal die gedelegeerde owerheid die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie en ander vaste bates. Met betrekking tot vaartuie sal beleggings in die vorm van aandeelhouding ook in aanmerking geneem word;
- Beleggings in prosesserings- en bemarkingsinfrastruktuur.

Wat nuwe inkomeling aansoekers betref, sal die gedelegeerde owerheid oorweging gee aan beleggings gemaak in ander sektore in die vorm van vaartuie, vaste bates, prosesserings- en bemarkingsinfrastruktuur. Daar sal van alle nuwe inkomeling aansoekers vereis word om aan te toon dat hulle die kennis, vaardigheid en kapasiteit het ten einde aan die KZN garnaal-treilvisserij deel te neem.

(c) Werksgeleenthede

Werkskepping en die vermeerdering van werksgeleenthede as gevolg van die toekenning van mediumtermynregte mag in ag geneem word, en in besonder aansoekers wat hulle werknemers voorsien het met—

- Voltydse indiensneming;
- Mediese- en pensioenvoordele;
- Veilige werksomstandighede.

(d) Prestasie

Finansiële prestasie sal gemeet word soos aangedui in die Algemene Visserybeleid. Bykomend, sal die gedelegeerde owerheid die aansoeker se visvangprestasie in ag neem waar moontlik, veral met betrekking tot die aantal dae spandeer met visvang in Suid-Afrikaanse gebiedswaters teenoor visvang in Tanzanië of Mosambiek.

(e) Betaling van visvangheffings

Regtehouer aansoekers sal penaliseer word as hul heffings vir 'n tydperk langer as 60 dae agterstallig is op datum van hulle aansoek.

(f) Wetsnakoming

Indien die aansoeker, sy lede of direkteure of beherende aandeelhouders skulderkenningboetes betaal het vir oortredings van die WLMH, die wet se regulasies of permitvoorwaardes sal die aansoeker penaliseer word.

(g) Byvangste

Die gedelegeerde owerheid sal poog om regtehouers aansoekers te beloon wat belê het in en maatreëls inwerkinggestel het om die landing van byvangste spesies te verminder. Die gedelegeerde owerheid sal ook punte toeken aan aansoekers wat byvangste land en markte gevind het vir byvangstespesies (behalwe lynvisspesies wat vir ontspanning of as verbode gelys is).

8.3 Kwantumkriteria

Die TOV is verdeel tussen aanlandige- en aflandige operasionele gebiede. Aansoekers sal toegelaat word om aansoek te doen vir beide aanlandige en aflandige visvangregte op dieselfde vaartuig of op twee verskillende vaartuie. Daar moet gelet word dat aflandige vaartuie nie toegelaat sal word om aanlandig vis te vang nie. Aanlandige vaartuie mag egter aflandig vis vang.

9. Geskikte vaartuie

Die KZN garnaal treilvisserij is 'n gespesialiseerde visserij en aansoekers moet toegang het tot groot oseaan-geskikte visvangvaartuie wat ingerig is om vir garnale te treil. Visvang moet geskied deur bodemtreil met 'n agterstewe-enkelnet, of slagboom-werking dubbel of driedubbele nette. Treilnette sal 'n maksimum voettoulengte van 72 meter hê met 'n minimum maas grote van 60mm van knoop tot knoop gemeet. Vaartuie moet toegerus wees met werkende vaartuigmoniteringstelsels.

10. Multi-sektorale betrokkenheid

Regtehouers in die KZN-garnaal-treilvisserij word nie verhinder om regte in enige ander visserij in die Groepe A- en Groep B-visserij te hou nie. Regtehouers in die KZN garnaal treilvisserij (insluitende hulle beherende aandeelhouers en lede van hulle uitvoerende bestuurspan) sal nie

toegelaat word om kommersiële visregte in Groepe C- en D te hou nie. Dieselfde geld vir tradisionele lynvis.

Vaartuie wat werkzaam is in die KZN garnaal treilvisserij mag nie in ander sektore gebruik word nie.

11. Landingsplekke

Die Suid-Afrikaanse hawens van Durban en Richardsbaai moet gebruik word om vangste te land. Geen ander hawens mag gebruik word nie.

12. Aansoekgelde en heffings

Die aansoekgelde vir hierdie visserij sal bepaal word met inagneming van:

- Die koste van die regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met ingang 1 Januarie 2006 betaalbaar is, sal bepaal word na oorlegpleging met regtehouers. Die heffings betaal sal deur die Departement gebruik word vir die mitigasie van jaarlikse kostes van bestuur, wetsnakoming en navorsing.

13. Bestuursmaatreëls

Die bestuursmaatreëls wat hieronder bespreek word weerspieël sommige van die Departement se hoofvoornemens vir die bestuur van hierdie visserij, nadat regte toegeken is.

13.1 Ekosisteembenadering tot bestuur van vissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die bestuur van visserye ("EBV"). 'n Ekosisteembenadering tot visserybestuur is 'n holistiese en geïntegreerde benadering wat erken dat dat visvang en verwante aktiwiteite op land die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die KZN garnaal-treilvisserij, is nie daarop gerig om 'n beleidsverklaring te voorsien oor EBV in die garnaal-treilvisserij nie. Die EBV in die garnaal treilvisserij sal verder uitgestippel word in die Bestuurshandleiding vir die garnaal treilvisserij. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EAF in die kommersiële visserye.

13.2 Byvangste

Byvangste in KZN garnaal treilvisserij is die onderwerp van verskeie navorsingsprojekte wat gefokus het op die kwantifisering van byvangstespesies; die uitwerking op lynvisspesies en op ekosisteme; die uitwerking van uitsluitertoestelle op die hoeveelheid byvangste; en die impak van 'n geslote visvangseisoen in die aanlandige vissery. Alle behoue (waarmee nie weggedoen word nie) byvangstespesies en hoeveelhede moet deur die skeepskapteins verklaar word. Geen gespikkelde knorhaan ("*Spotted Grunter*") (*Pomadasys commersonii*) wat deur die KZN garnaal-treilvisserij gevang word, mag verkoop word nie. Sektor-spesifieke regulasies met betrekking tot verwerpte byvangste sal na die afloop van die navorsingsprojekte volg.

13.3 Vaartuie

Agt vaartuie is tans gemagtig om in hierdie sektor vis te vang. Die huidige TOV (in terme van vaartuie en deelnemers) word al vir 'n dekade behou. Daar word egter slegs 50 tot 60 persent van die beskikbare vangspoging in KZN uitgeoefen; die res bly latent. Van die vaartuie vang vir die grootste deel van die jaar vis in Mosambiek. Nie meer as agt vaartuie sal toegelaat word om in hierdie sektor deel te neem nie.

13.4 Nasionaliteit van die vangs

Vis wat in Mosambiek gevang is, mag by Durban of Richardsbaai geland word, maar dit moet vergesel word van dokumentasie wat die oorsprong van die vangs verklaar, m.a.w. die koördinate van die posisies waar vis gevang is, die vangspoging wat tydens die vangs ontplooi is en die hoeveelhede geland en 'n Mosambiekse visvangpermit.

13.5 Die beginsel van voorkoming en volhoubaarheid

Hierdie is 'n gespesialiseerde vissery wat slegs toeganklik is vir plaaslike kommersiële visvang. Die vissery is klein in vergelyking met ander visserye en geen betroubare voorraadmeting van die teikenspesies is nog uitgevoer nie. Die KZN treilvisvanggebiede is klein en sal waarskynlik nie uitbrei nie. 'n Versigtige benadering tot die bestuur van vangspoging in hierdie vissery sal gevolg word totdat bevredigende meting van die bron en die ekologiese uitwerking van visvang vasgestel is.

Die Departement is nie ten gunste daarvan om vangspoging in die aanlandige gebied te vermeerder nie as gevolg van die hoë byvangs van jong vis. Vir hierdie rede is die Departement nie van voornemens om die aanlandige- en aflandige komponente van hierdie vissery saam te smelt nie.

Die Departement erken dat die wisselingvalligheid en onvoorspelbaarheid van die bron die winsgewendheid van die vissery beperk. Die prestasie van die vissery sal noukeurig gemonitor word en die doelwit is om dit doeltreffend en volhoubaar te bestuur.

14. Meet van prestasie

Die Departement sal 'n aantal formele prestasiemetingoefeninge instel vir die duur van die kommersiële visvangregte. Daar word beoog om die prestasiemetingoefening na twee jaar uit te voer en dan elke vier jaar daarna.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers na die toekenning van kommersiële visvangregte gemeet sal word sal finaliseer na die toekenning van kommersiële visvangregte, en na oorlegpleging met regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie en toerusting;
- volhoubare benutting, en in besonder die ekologiese impak van treilvisvangs;
- nakoming van toepaslike wette en regulasies.

Die oogmerk met prestasie-meting sal wees om te verseker dat die doelstellings van die vissery bereik word en dat bestuursmetodologie en prosedures geskik is en op datum bly vir die vissery.

15. Waarnemersprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassings-doeleindes in te sluit. Die Departement sal verder die dekking van waarneming van hierdie vissery progressief uitbrei. Daar sal van regtehouers verwag word om die koste van die waarnemingsproses te dra.

16. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery sal jaarliks uitgereik word. Die permitvoorwaardes sal vasgestel word na konsultasie met regtehouers in hierdie vissery en sal onderworpe wees aan hersiening soos en wanneer dit nodig mag wees.



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

BRANCH MARINE AND COASTAL MANAGEMENT

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF LONG-
TERM COMMERCIAL FISHING RIGHTS IN THE PATAGONIAN
TOOTHFISH FISHERY: 2005**

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

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1. Introduction

This policy on the allocation and management of commercial fishing rights in the Patagonian toothfish (*Dissostichus eleginoides*) fishery is issued by the Minister of Environmental Affairs and Tourism ("the Minister"). Interested and affected parties are advised that this policy must be read with the General Policy on the Allocation and Management of Long-term Commercial Fishing Rights: 2005 ("the General Fisheries Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial Patagonian toothfish fishing rights. Many of these considerations are not new. They have been applied by the Minister and delegated authorities from the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("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 policy. A Patagonian Toothfish Fishery Management Manual will be finalised with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the fishery.

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

2. Biology and resource dynamics

Patagonian toothfish, also known as Chilean sea bass, is a deep-water, demersal species which is found on sub-Antarctic continental shelves down to 3 000 metres. Several countries can lay claim to Patagonian toothfish which occur within the exclusive economic zones ("EEZ's") of Chile, Argentina and other countries with sovereignty over the southern Ocean islands. South Africa's

EEZ around the Prince Edward Islands ("PEI") is a prime fishing ground for Patagonian toothfish. Much of the range of Patagonian toothfish, however, falls within the high seas.

Patagonian toothfish live for over 50 years and reach a length of over two metres. Maturity is attained between six and nine years of age, equivalent to a length range of 70 to 95 centimetres. Spawning occurs on continental shelves in winter, but eggs only hatch in spring.

3. Sector profile

Global catches of Patagonian toothfish have declined sharply since the origins of the fishery in the late 1980s. A combination of its high value, late maturity and occurrence in the high seas has caused the near-collapse of the fishery, which has seen unprecedented levels of illegal, unregulated and unreported ("IUU") fishing. South Africa's waters around the Prince Edward Islands were extensively targeted and the Commission for the Conservation of Antarctic Marine Living Resources ("CCAMLR") estimates that as much as 32 000 tons of toothfish, with a value of US\$100 million was illegally fished from the PEI-EEZ between 1996 and 1998. Patagonian toothfish are caught by trawl and by longline. The latter method has had a disastrous impact on seabirds, particularly albatross and petrels.

The harvesting of Patagonian toothfish has been authorised by South Africa since 1996. Following the promulgation of the Marine Living Resources Act in 1998, the fishery has been regulated as an experimental fishery under section 83.

In 1996, five experimental permits were issued (under the Sea Fisheries Act of 1988) for the harvesting of Patagonian toothfish within the EEZ of the Prince Edward Islands ("the PEI-EEZ"). Since then, the Minister of Environmental Affairs and Tourism has set annual total allowable catches ("TAC") for this fishery. The TAC for the 1996/1997 fishing season was set at 3000 tons. However, the TAC for the experimental toothfish fishery has declined steadily and was set at 500 tons for the 2003/2004 fishing season.

The Prince Edward Islands are situated within the jurisdiction of the CCAMLR Convention Area. South Africa is a founding member of CCAMLR, the regional fishery management organisation

tasked with primarily monitoring and allocating catching rights for Patagonian toothfish in Antarctic waters. Patagonian toothfish has been targeted by poachers. Toothfish is a sought after fish on Asian and North American markets. Patagonian toothfish is a high value white fish that fetches prices as high as US\$13 000 per ton. It is the fish's high value that has led to the high levels of IUU fishing in the fishery.

Poaching in the PEI-EEZ has largely been brought under control. The fishery remains commercially sustainable provided that it is effectively regulated with participants in terms of the Guidelines determined by CCAMLR. The Minister has decided to allocate long-term commercial fishing rights in this fishery.

The fishery is a high-risk, extremely capital-intensive fishery that requires right-holders to make substantial investments in vessels, gear, research and marketing. Start-up costs would require a capital investment of several million rand and operational costs are substantial.

4. The experimental permit allocation

Commercial fishing rights have never previously been allocated in this fishery. In 1996, five experimental permits were issued for the fishing of Patagonian toothfish. With the continuous decline in the TAC, the five experimental permit-holders consolidated costs and effort by reducing the number of vessels in the fishery from three to two. Four of the operators concluded a joint venture agreement to operate one vessel and have effectively pooled their resources. All permit holders operate in both the PEI-EEZ and on the high seas within the CCAMLR Convention area.

5. Over-arching sectoral objectives

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

- Ensure the continued presence of South African Patagonian toothfish vessels in the PEI-EEZ and on the high seas within the CCAMLR Convention area as an important means to deter IUU fishing;

- Maintain or improve the transformation profile of the fishery;
- Encourage investment in South African vessels, infrastructure and jobs;
- Reduce the avoidable by-catch and catch losses associated with longlining by seeking improved fishing methods;
- Support the economic viability of the fishery; and
- Support the environmental sustainability of the fishery.

Certain post rights allocation management policy considerations are broadly elaborated on below.

6. Duration of rights and limitation of effort

Having regard to –

- the precarious biological state of the resource;
- the fact that the fishery requires substantial capital investment;
- the fact that substantially more data on the biology of Patagonian toothfish is required;
- the need to sustain the number of jobs in this fishery; and
- the objectives of CCAMLR,

commercial rights will be allocated for a period of 10 years (1 December 2005 to 30 November 2015). Every right-holder will be tested at regular intervals against predetermined performance criteria. With regard to the effort to which this fishery will be subjected, the Department's current strategy is to limit the number of vessels in this fishery to two. This strategy may change should poaching levels decrease and the TAC increase.

7. New entrants

Rights under section 18 of the Marine Living Resources Act have never before been granted for Patagonian toothfish. Accordingly, there are no previous right-holders. The delegated authority will consider applications from entities regardless of whether or not they held an experimental permit for this fishery. Due to the precarious state of the resource, it is unlikely that more than five right-

holders can be accommodated.

8. Evaluation criteria

Applications for commercial Patagonian toothfish fishing rights will be evaluated against a number of exclusionary and balancing criteria.

8.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Rights will only be granted to entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Rights will not be granted to natural persons (i.e. individuals or sole proprietors) or trusts.
- (b) **Compliance:** If a permit holder applicant, or its members, directors or controlling shareholders have been convicted of an offence in terms of the MLRA, the applicant breached the provisions of the Law of the Sea Convention, any applicable convention, declaration or treaty of CCAMLR, or the provisions of any other country's marine and/or fisheries laws, will not be allocated a Patagonian toothfish fishing right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to a permit holder applicant if the applicant, or its members, directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA.

Permit holders, including their members, directors or controlling shareholders, who are currently being investigated for breaches of any of the laws or legal instruments listed above, whether criminal or administrative, may not be allocated

a Patagonian toothfish fishing right until the conclusion of the investigation.

(c) **Paper quotas:** Paper quotas as defined in the General Policy will be excluded.

(d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (see paragraph 9 below).

8.2 Comparative balancing criteria

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General Policy for further detail. This applies in particular to the "transformation" criterion.

(a) Transformation

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

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

- Corporate social investment.

(b) Investment in the fishery

Applicants will be evaluated on:

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered. Applicants may also be rewarded for having concluded agreements in terms of which operating or other costs are shared; and
- Investment in and access to markets for Patagonian toothfish.

(c) Knowledge of the fishery

Applicants will be required to demonstrate that they have the appropriate knowledge to fish for Patagonian toothfish.

(d) Participation in the experimental fishery

Applicants that successfully participated in the Patagonian toothfish experimental fishery will be preferred. In this regard, the delegated authority will consider, *inter alia*, catch performance, reporting and adherence to permit conditions and CCAMLR conservation measures.

(e) By-catch and dumping

Applicants will be required to demonstrate what by-catch mitigation and reduction measures they have invested in, or would invest in, to ensure that seabird mortality is avoided and by-catch management procedures and controls are implemented.

The dumping of fish is prohibited and may lead to the revocation of a right in terms of section 28 of the MLRA.

(f) Ability to commence with fishing operations

Preference will be given to applicants who demonstrate that they are able to commence with fishing operations soon after a right is allocated.

(g) Jobs

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

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

Jobs created per ton of fish allocated during the experimental phase or in other sectors may be assessed and taken into account.

(h) Compliance

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

8.3 Quantum criteria

Quantum will be allocated with reference to the catching ability and, where applicable, the past performance of an applicant. The methodology in terms of which quantum will be allocated will be the subject of consultation between successful applicants and the delegated authority before permits are issued.

9. Suitable vessels

A suitable vessel in the Patagonian toothfish fishery is a vessel that:

- has a minimum SAMSA registered length of approximately 40 metres;
- is fitted with a functioning vessel monitoring system;
- is geared for long lining and is capable of carrying fishing pots;
- is ice strengthened (if the applicant intends to fish south of 60° South);
- if to be used in the PEI-EEZ, is certified by SAMSA to fish south of 40° South;
- is not negatively listed by any international or regional fishery organisation;
- and
- is South African flagged. The delegated authority will consider a foreign flagged vessel to be suitable if the vessel complies with all of the above and the owner of the vessel gives a written undertaking to have the vessel re-flagged as South African within 12 months of the allocation of the fishing right.

10. Multi-sector involvement

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

11. Application fees and levies

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

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

The annual levies payable with effect from 1 December 2005 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

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 an holistic and integrated policy which recognises that fishing and associated land based activities impact on the broader marine environment. This part of the Patagonian toothfish fishing policy does not attempt to provide a policy statement on EAF in the Patagonian toothfish fishery. The EAF in the Patagonian toothfish fishery will be detailed further in the Fishery Management Manual for the Patagonian toothfish fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

12.2 Marine protected areas

The Minister of Environmental Affairs and Tourism has indicated his intention to declare a Marine Protected Area in the area around the Prince Edward Islands. In so doing, the Department hopes to conserve the unique biodiversity of the sub-Antarctic Islands and their surrounding waters. The intention at this stage is to prohibit all fishing in the territorial waters (i.e. within the 12 nautical mile marine area) but permit controlled fishing in the waters beyond the 12 nautical mile limit. The Minister will, however, consult with all interested and affected parties about this matter in due course.

12.3 Consolidation of participants

As noted above, five participants were allocated an experimental permit for Patagonian toothfish. Four of these permit holders have consolidated operations. Currently, two vessels operate in the experimental fishery. Consolidation is accordingly not of any particular relevance in this fishery.

12.4 Vessels and fishing effort

As stated in paragraph 6 above, the delegated authority will authorise two vessels to operate in this fishery. The vessels must be rigged to fish with long lines, using suitable bird by-catch mitigation gear. In addition, vessels will be allowed to carry fishing pots.

12.5 Reporting

All right-holders in this fishery will have to adhere to strict reporting measures to ensure that they and South Africa comply with international requirements for this fishery. In particular, right-holders will have to adhere to the requirements of the *Dissostichus* Catch Document ("DCD") issued by CCAMLR, and report by way of Vessel Monitoring Systems ("VMS"). Each landing of Patagonian toothfish must be accompanied by a DCD and the Port State must verify the position of the catches by examining the VMS plot supplied by the vessel.

12.5 Experimental crab fishery

Crabs are currently a high value by-catch in the Patagonian toothfishery. The Department is accordingly considering the appropriateness of introducing an experimental fishery for crabs. Should the Department decide to introduce such an experimental fishery, experimental permits will be issued in terms of section 83 of the MLRA but subsequent to an open invitation to apply for such experimental permits.

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 two years and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of commercial fishing rights, and after consulting with right-holders,

the following broad performance-related criteria may be used:

- transformation;
- investment in vessels and gear;
- sustainable utilisation, and in particular the biological and ecological impacts of longline and pot fishing;
- compliance with applicable laws and regulations (both national and international).

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

14. Observer programme

The Department's current observer programme will be expanded to include compliance observation. Right-holders will be required to carry an observer during every voyage. 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 will be determined after consultation with right holders but subject to CCAMLR requirements for this fishery and will be subject to revision as and when it may be necessary.



DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

**BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN
LANGTERMYN KOMMERSIËLE VISVANGREGTE IN DIE
PATAGONIESE TANDVIS ("Patagonian Toothfish") VISSERY : 2005**

**HIERDIE BELEID MOET SAAMGELEES WORD MET DIE ALGEMENE
BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN
LANGTERMYN KOMMERSIËLE VISVANGREGTE: 2005 (beskikbaar
by www.mcm-deat.gov.za)**

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1. Inleiding

Hierdie beleid vir die toekenning en bestuur van kommersiële visvangregte in die Patagoniese Tandvisvisserij (*Dissostichus eleginoides*) word uitgereik deur die Minister van Omgewingsake en Toerisme (die "Minister"). Hierdie beleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid")

Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die Patagoniese tandvisvisserij uiteen te sit. Baie van hierdie oorwegings is nie nuut nie. Hulle is in die verlede deur die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement") gebruik by die toekenning van regte en tot 'n mate beliggaam hierdie beleid sodanige oorwegings.

Sekere bestuursbeleidsrigtings vir die periode na die toekenning van regte verskyn ook in hierdie beleid. 'n Bestuurshandleiding vir die Patagoniese tandvisvisserij sal met al die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die toepaslike bestuursmetodes en prosedures vir die visserij uitstippel.

Die Minister is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte in die Patagoniese tandvisvisserij toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne 18 van 1998 (die "WLMH") aan 'n senior beampste van die Departement te delegeer. Hierdie beleid sal die gedelegeerde owerheid lei in die neem van besluite oor aansoeke in hierdie visserij.

2. Biologie en brondinamika

Patagoniese tandvis, ook bekend as die Chileense seebaars, is 'n diepwater-, bodemspesie wat gevind word op sub-Antarktiese kontinentale platte tot op 'n diepte van 3 000 meter. Verskeie lande kan aanspraak maak op Patagoniese tandvis wat voorkom in die eksklusiewe ekonomiese sones (EES) van Chile, Argentinië en vele ander lande wat soewereiniteit oor die suidelike oseaan-

eilande. Suid-Afrika se EES om die Prins Edward-eilande is 'n belangrike visvanggebied vir Patagoniese tandvis. Die grootste gebied waar Patagoniese tandvis voorkom is in die oop see.

Patagoniese tandvis leef langer as 50 jaar en bereik 'n lengte van meer as twee meter. Volwassenheid word bereik tussen die ouderdom van ses en nege jaar, met 'n ekwivalente lengte van 70 tot 95 sentimeter. Hulle broei in winter op kontinentale platte, maar eiers broei eers in die lente uit.

3. Sektorale profiel

Wêreldwye vangste van Patagoniese tandvis het drasties afgeneem sedert die ontstaan van die vissery in die laat 1980s. 'n Kombinasie van die hoë waarde van die spesie, sy laat volwassenheid en sy voorkoms in die oop see het daartoe gelei dat die vissery amper in duie gestort het en ongekende vlakke van onwettige, ongereguleerde en onaangemelde (OOO) visvangste gewaar is. Suid-Afrika se gebied rondom die Prins Edward-eilande is uitvoerig geteiken en Commission for the Conservation of Antarctic Marine Living Resources ("CAMLR") skat dat tussen 1996 en 1998 so veel as 32 000 ton tandvis, ter waarde van US\$100 miljoen, onwettig in die PEE-EES gevang is. Patagoniese tandvis is met treilnet en langlyn gevang. Laasgenoemde metode het 'n rampspoedige impak op seevoëls, veral albatros en stormvoëls gehad.

Suid-Afrika het die oes van Patagoniese tandvis vanaf 1996 gemagtig. Nadat die Wet op Lewende Mariene Hulpbronne in 1998 uitgevaardig is, is die vissery as eksperimentele vissery ingevolge artikel 83 gereguleer.

In 1996, is vyf eksperimentele permitte (ingevolge die Wet op Seevisserye van 1988) uitgereik vir die oes van Patagoniese tandvis binne die EES van die Prins Edward-eilande ("die PEE-EES"). Sedertdien het die Minister van Omgewingsake en Toerisme jaarlikse totale toelaatbare vangste ("TTVs") vir hierdie vissery vasgestel. Die TTV vir die visvangseisoen 1996/1997 is op 3000 ton vasgestel. Die TTV vir die eksperimentele tandvisvissery het egter geleidelik afgeneem en is op 500 ton vir die 2003/2004-seisoen vasgestel.

Die Prince Edward-eilande is binne die regsgebied van die CCAMLR se jurisdiksie geleë. Suid-Afrika is 'n stigterslid van CCAMLR, 'n streeksvisserybestuurorganisasie wat hoofsaaklik verantwoordelik is vir die monitering en toekenning van visvangregte vir Patagoniese tandvis in Antarktiese waters. Patagoniese tandvis is deur stropers geteiken. Tandvis 'n gesogte vis op Asiatiese en Noord-Amerikaanse markte. Patagoniese tandvis is 'n hoë-gehalte wit vis wat pryse van tot US \$ 13 000 per ton haal. Dit is die vis se hoë waarde wat bygedra het tot die grootskaalse OOR vangste in die sektor.

Stroping in die PEE-EES is grootliks onder beheer gebring. Die visserij sal kommersieel volhoubaar bly, indien dit doeltreffend saam met deelnemers gereguleer word ingevolge die riglyne wat deur CCAMLR vasgestel is. Die Minister het besluit om langtermyn kommersiële visvangregte in hierdie visserij toe te ken.

Die visserij is 'n hoë risiko, uiters kapitaal-intensiewe visserij, waar van regtehouers vereis word om aansienlike beleggings te maak in vaartuie, toerusting, navorsing en bemaking. Aanvangskoste verg 'n kapitaalbelegging van etlike miljoene rand en operasionele koste is substansieel.

4. Toekenning van eksperimentele permitte

Komersiële visvangregte is nog nooit vantevore in hierdie visserij toegeken nie. In 1996 is vyf eksperimentele permitte om Patagoniese tandvis te vang, uitgereik. Met die voortdurende afname in die TTV, het die vyf eksperimentele permit-houers koste en poging gekonsolideer deur die drie vaartuie in die visserij na twee te verminder. Vier van die operateurs het 'n gesamentlike sake-ooreenkoms aangegaan om een vaartuig te gebruik en het hul bronne effektiewelik saamgepoel. Al die permithouers is werksaam in beide die PEE-EES en op die oop see binne die CCAMLR jurisdiksionele gebied.

5. Oorkoepelende sektorale doelwitte

Die oorkoepelende doelwitte met die toekenning van langtermyn visvangregte in hierdie visserij is om:

- Suid-Afrikaanse patagoniese tandvis vaartuie in die PEE-EES en op die oop see in die CCAMLR- gebied te verseker as 'n belangrike middel om OOO-vangste af te skrik.
- Die transformasieprofiel van die vissery in stand te hou of te verbeter.
- Belegging in Suid-Afrikaanse vaartuie, infrastruktuur en werksgeleenthede aan te moedig;
- Die vermybare byvangste te verminder en verliese van vangste wat met langlynvangste verbind word te verminder deur verbeterde visvangmetodes te soek;
- Die ekonomiese lewensvatbaarheid van die vissery te ondersteun; en
- Die omgewingsvolhoubaarheid van die vissery te ondersteun.

Sekere beleidsoorwegings rakende bestuur vir die periode na regte toekenning word breedweg hieronder aangespreek.

6. Tydsduur van regte en beperking van vangspoging

Met inagneming van –

- Die bedenklige biologiese stand van die bron;
- Die feit dat die vissery aansienlike kapitaalbeleggings vereis;
- Die feit dat aansienlik meer data oor die biologie van die Patagoniese tandvis benodig word;
- Dit nodig is om die aantal werksgeleenthede in die vissery te handhaaf; en
- Die doelwitte van CCAMLR,

sal kommersiële visvangregte vir 'n tydperk van 10 jaar toegeken word (1 Desember 2005 tot 30 November 2015). Die Departement sal gereeld regtehouers evalueer teen voorafbepaalde prestasiekriteria (sien paragraaf 14 hier onder). Ten opsigte van die vangspoging wat toegelaat sal word in hierdie vissery, is die Departement se huidige strategie om die aantal vaartuie in hierdie vissery tot twee te beperk. Hierdie strategie mag verander indien stropingsvlakke afneem en TTV

toeneem.

7. Nuwe inkomelinge

Regte is ingevolge artikel 18 van die Wet op Lewende Mariene Hulpbronne nog nooit vantevore vir Patagoniese tandvis toegeken nie. Dus is daar nie bestaande regtehouers nie. Die gedelegeerde owerheid sal aansoeke van entiteite oorweeg ongeag of hulle 'n eksperimentele permit vir hierdie visserij gehou het of nie. As gevolg van die bedenklike toestand van die bron, is dit onwaarskynlik dat meer as vyf regtehouers akkomodeer sal kan word.

8. Evaluasiekriteria

Aansoeke om kommersiële visvangregte vir Patagoniese tandvis sal in terme van 'n aantal uitsluitings- en balanseringskriteria geëvalueer word.

8.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid aangaande die indiening van die aansoeke en wesentlike tekortkominge, sal die gedelegeerde owerheid aansoekers uitsluit wat versuim om aan die volgende vereistes te voldoen:

- (a) **Vorm van die aansoeker:** Slegs aansoeke van entiteite geïnkorporeer ingevolge die Wet op Beslote Korporasies 69 van 1984 en die Maatskappywet 61 van 1973, sal oorweeg word. Aansoeke van natuurlike persone (d w s individue of alleen-eienaars) of trusts sal nie in aanmerking kom nie.
- (b) **Wetsnakoming:** Indien 'n permithouer aansoeker of sy direkteure of beherende aandeelhouders wat skuldig bevind is aan 'n misdryf ingevolge die WLMH (sonder die opsie om 'n boete te betaal), die Law of the Sea Convention, enige toepaslike konvensie, enige verklaring of verdrag van CCAMLR, of die bepalinge van enige ander land se mariene- en/of visvangwette, sal nie 'n reg vir Patagoniese tandvis nie aan die aansoeker toegeken word nie. . Dit sluit nie die betaling van 'n skulderkenningsboete in nie. Regte sal ook nie

toegeken word aan 'n permithouer-aansoeker indien die aansoeker of sy lede, direkteure of beherende aandeelhouders se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH of daar op hul bates beslag gelê is in terme van die Wet op die Voorkoming van Georganiseerde Misdaad 121 van 1998 of die WLMH nie.

Indien 'n permithouer aansoeker of sy direkteure of beherende aandeelhouders ondersoek word vir oortreding van enige van die wette of regsinstrumente hierbo gelys, hetsy krimineel of administratief, sal 'n reg nie toegeken word, voordat die ondersoek afgehandel is nie.

- (c) **Papier-kwotas:** Papier-kwotas soos gedefinieer in die Algemene Beleid, sal uitgesluit word.
- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal moet aantoon dat hulle 'n reg van toegang tot 'n geskikte vaartuig het. (sien verder paragraaf 9 hieronder).

8.2 Vergelykende balanseringskriteria

Aansoekers sal evalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal. Die kriteria hieronder uiteengesit moet saamgelees word met die ooreenstemmende kriteria in die Algemene beleid vir verdere detail. Dit is in besonder van toepassing op die transformasie kriterium.

(a) Transformasie

Een van die doelwitte met die toekenning van langtermyn visvangregte in hierdie visserij is om die huidige transformasievlakke te handhaaf of te verbeter. Soos in die Algemene Visvangbeleid bepaal, sal aansoekers evalueer word en punte sal toegeken word op grond van -

- Die persentasie swart en vroue eienaarskap en swart en vroue verteenwoordiging op top salarisvlakke, die direksie en senior beampte en bestuursvlakke;
- Of werknemers (anders as top salaristrekkers) voordeel trek uit 'n werknemeraandeleskema;
- Regstellende aankope;
- Nakoming van die Wet op Diensbillikheid 55 van 1998 en die verteenwoordigheid van swart persone en vroue op die verskillende diensvlakke onder senior beampte en bestuursvlakke. Die gedelegeerde owerheid mag ook die verskil in besoldigingsvlakke tussen die hoogste en laagste betaalde werknemers in ag neem.
- Nakoming van wetgewing oor vaardigheidsontwikkeling en die bedrae spandeer op die opleiding van swart persone en deelname aan leerskapprogramme; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die vissery

Aansoekers sal geëvalueer word volgens:

- Beleggings in geskikte vaartuie en ander vaste bates. Met betrekking tot beleggings in vaartuie sal beleggings in die vorm van aandeelhouding ook in aanmerking geneem word. Aansoekers mag beloon word vir die sluiting ooreenkomste in terme waarvan bedryfskoste- of ander kostes gedeel word; en
- Belegging in en toegang tot markte vir Patagoniese tandvis.

(c) Kennis van die vissery

Aansoekers sal verwag word om aan te toon dat hulle die gepaste kennis het om

Patagoniese tandvis te vang.

(d) Deelname aan die eksperimentele vissery

Aanzoekers wat suksesvol deelgeneem het aan die eksperimentele vissery vir Patagoniese tandvis sal voorkeur geniet. In hierdie verband sal die gedelegeerde owerheid oorweging gee aan onder andere vangsteprestasie, verslagdoening en nakoming van permitvereistes en die bewaringsmaatreëls van CCAMLR.

(e) Byvangste en storting

Daar sal van aanzoekers vereis word om aan te toon watter beleggings hulle gemaak het, of sal maak, ten einde te verseker dat seevoëlmortaliteit vermy word en byvangste bestuursprosedures en kontrole geïmplementeer word.

Die storting van vis word verbied en kan lei tot die intrekking van regte in terme van artikel 28 van die WLMH.

(f) Vermoë om met visvangbedryghede te begin

Voorkeur sal verleen word aan aanzoekers wat kan aantoon dat hulle instaat is om kort nadat 'n reg toegeken is, met visvangbedryghede te begin.

(g) Werksgeleenthede

Werkskepping en die vermeerdering van werk as gevolg van die toekenning van eksperimentele permitte sal beloon word, en in besonder, aanzoekers wat hulle werknemers voorsien het met-

- Voltydse werk;
- Mediese fonds en pensioen;
- Veilige werksomstandighede.

Werksgeleenthede geskep is per tonnemaat vis toegeken gedurende die eksperimentele fase of in ander sektore mag bepaal en in ag geneem word.

(h) Wetsnakoming

Indien die aansoeker, sy lede of direkteure of beherende aandeelhouders skulderkenningboetes betaal het vir oortredings van die WLMH, die wet se regulasies of permitvoorwaardes sal die aansoeker penaliseer word.

8.3 Kwantumkriteria

Kwantum sal toegeken word met verwysing na die vangsvermoë en waar van toepassing, die vorige prestasie van 'n aansoeker. Die metodologie in terme waarvan kwantum toegeken sal word sal die onderwerp wees van konsultasie tussen die gedelegeerde owerheid en die suksesvolle aansoekers, voordat permitte uitgereik word.

9. Geskikte vaartuie

'n Geskikte vaartuig in die Patagoniese tandvisvisserij is 'n vaartuig wat :

- 'n minimum SAMVV gesertifiseerde lengte van ongeveer 40 meter het;
- toegerus is met 'n funksionerende vaartuigmoniteringstelsel;
- aangepas is vir langlynvangs en in staat is om vispotte te dra;
- teen ys versterk is (indien die aansoeker voornemens is om suid van 60° Suid te vang);
- Indien van voornemens is om in die PEE-EES gebruik te word deur SAMVV gesertifiseer is om suid van 40° Suid vis te vang;
- Nie deur enige internasionale of streeksvisserij-organisasie geswartlys is nie; en
- Voorsien is van 'n Suid Afrikaanse vlag. Die gedelegeerde owerheid sal 'n vaartuig met 'n buitelandse vlag as geskik ag, indien die vaartuig voldoen aan al die bogenoemde vereistes en die eienaar van die vaartuig skriftelik

ondernem om die vaartuig binne 12 maande na toekenning van die regte van 'n Suid-Afrikaanse vlag te voorsien.

10. Multi-sektorale betrokkenheid

Regtehouers in die Patagoniese tandvis-vissery word nie verhinder om regte te hou in enige ander Groep A- en Groep B-visserye nie. Regtehouers in die Patagoniese tandvis-vissery (met inbegrip van hul lede, hus behorende aandeelhouers en lede van hulle uitvoerende bestuurspan) sal nie toegelaat word om kommersiële visvangregte in Groep C- en Groep D-visserye te hou nie. Dieselfde geld vir tradisionele lynvis.

11. Aansoekgelde en heffings

Die aansoekgelde vir hierdie vissery sal bepaal word met inagneming van:

- Die koste van die regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met ingang 1 Desember 2005 betaalbaar is, sal hersien word na oorlegpleging met regtehouers. Die heffings betaal sal deur die Departement gebruik word vir die mitigasie van jaarlikse kostes van bestuur, wetsnakoming en navorsing.

12. Bestuursmaatreëls

Die bestuursmaatreëls wat hier onder bespreek word, weerspieël sommige van die Departement se hoofvoornemens vir die bestuur van hierdie vissery nadat regte toegeken is.

12.1 Ekosisteem-benadering tot bestuur van visserye

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die bestuur van visserye ("EBV"). 'n Ekosisteembenadering tot visserybestuur is 'n holistiese en

geïntegreerde benadering wat erken dat dat visvang en verwante aktiwiteite op land die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die Patagoniese tandvisvisserij, is nie daarop gerig om 'n beleidsverklaring te voorsien oor EBV in die patagoniese tandvisvisserij. Die EBV in die Patagoniese tandvisvisserij sal verder uitgestippel word in die Bestuurshandleiding vir die Patagoniese tandvisvisserij. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserij.

12.2 Beskermd Mariene Gebiede

Die Minister van Omgewingsbewaring en Toerisme het sy voorneme aangedui om 'n Beskermd Mariene Gebied in die omgewing om die Prins Edward-eilande te verklaar. Hiermee hoop die Departement om die unieke biodiversiteit van die sub-Antarktiese eilande en die omliggende waters te bewaar. Op hierdie stadium is die bedoeling om visvangbedrywighede in die gebiedswaters (d. w. s. binne die 12 seemyl mariene gebied) te verbied maar beheerde visvang in die waters buite die 12 seemyl-perk toe te laat. Die Minister sal egter mettertyd met alle belanghebbende en geaffekteerde partye oor hierdie aangeleentheid beraadslaag.

12.3 Konsolidasie van deelnemers

Soos hierbo uiteengesit, is eksperimentele permitte vir Patagoniese tandvis aan vyf deelnemers toegeken. Vier van hierdie permithouers het hulle bedrywighede gekonsolideer. Tans is daar net twee vaartuie in die eksperimentele visserij werksaam. Konsolidasie is dus nie van enige besondere relevansie in hierdie visserij nie.

12.4 Vaartuie en vangspogings

Soos gestel in paragraaf 6 hierbo, sal die gedelegeerde owerheid twee vaartuie in hierdie visserij magtig. Die vaartuie moet toegerus wees om met langlyne vis te vang en geskikte toerusting gebruik om voël-byvangste te beperk. Bykomend, sal vaartuie toegelaat word om vispotte te dra.

12.5 Verslagdoening

Alle regtehouers in hierdie vissery sal streng by verslagdoeningsmaatreëls moet hou om te verseker dat hulle, en Suid-Afrika, voldoen aan internasionale vereistes vir hierdie vissery. Regtehouers sal in die besonder moet voldoen aan die vereistes van die *Dissostichus* Catch Document (DCD) deur CCAMLR uitgereik, en sal moet rapporteer deur middel van Vaartuigmoniteringstelsels (VMS). Elke landing van Patagoniese tandvis moet vergesel word van 'n DCD en die Hawestaat moet die posisie van die vangste nagaan deur die VMS-kartering te ondersoek wat verskaf word deur die vaartuig.

13. Eksperimentele krapvissery

Krap is huidiglik 'n hoë waarde byvangs in die Patagoniese tandvisvissery. Die Departement is dus besig om die geskiktheid van 'n eksperimentele krapvissery te oorweeg. Sou die Departement besluit om so 'n eksperimentele vissery in te stel, sal eksperimentele permitte uitgereik word in terme van artikel 83 van die WLMH, maar eers na 'n ope-uitnodiging om vir die permitte aansoek te doen.

14. Die meet van prestasie

Die Departement sal 'n aantal formele prestasie-metingoefeninge instel vir die duur van die kommersiële visvangregte. Daar word beoog om die prestasie-metingoefening na twee jaar uit te voer en dan elke drie jaar daarna.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers na die toekenning van kommersiële visvangregte gemeet sal word sal finaliseer na die toekenning van kommersiële visvangregte, en na oorlegpleging met regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie en toerusting;
- volhoubare benutting, en in besonder, die biologies en ekologiese uitwerking van langlyn- en potvisvangs;

- nakoming van toepaslike wette en regulasies (beide nasionaal en internasionaal).

Die oogmerk met prestasie-meting sal wees om te verseker dat die doelstellings van die visserij bereik word en dat bestuursmetodologie en prosedures geskik is en op datum bly vir die visserij.

15. Waarnemersprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassings-doeleindes in te sluit. Daar sal van regtehouers verwag word om 'n waarnemer op elke vaart aan boord te dra. Daar sal van regtehouers verwag word om die koste van die waarnemingsproses te dra.

16. Permitvoorwaardes

Permitvoorwaardes vir hierdie visserij sal jaarliks uitgereik word. Die permitvoorwaardes sal vasgestel word na konsultasie met regtehouers in hierdie visserij en sal onderworpe wees aan hersiening soos en wanneer dit nodig mag wees.

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