



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 477

Pretoria, 4 March
Maart 2005

No. 27358



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

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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 400 OF 2005

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

INVITATION TO COMMENT ON THE DRAFT POLICIES CONCERNING THE ALLOCATION AND MANAGEMENT OF LONG TERM FISHING RIGHTS IN THE HAKE DEEP SEA TRAWL, INSHORE TRAWL, HORSE MACKEREL, KWA-ZULU NATAL PRAWN TRAWL, PATAGONIAN TOOTHFISH, SMALL PELAGICS (ANCHOVY AND SARDINE PURSE-SEINE) AND SOUTH COAST ROCK LOBSTER FISHERIES, 2005.

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

1. Hake Deep Sea Trawl (English Annexure A, Afrikaans – Annexure B)
2. Inshore Trawl (English - Annexure C, Afrikaans – Annexure D)
3. Horse Mackerel (English - Annexure E, Afrikaans – Annexure F)
4. Kwa-Zulu Natal Prawn Trawl (English - Annexure G, Afrikaans – Annexure H, Zulu – Annexure I)
5. Patagonian Toothfish (English - Annexure J, Afrikaans – Annexure K)
6. Small Pelagics (Anchovy And Sardine Purse-Seine) (English - Annexure L, Afrikaans – Annexure M)
7. South Coast Rock Lobster (English - Annexure N, Afrikaans – Annexure O)

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

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

Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleids Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleids Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleids Kommentaar By Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieerseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleids Kommentaar
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*Please specify the fishery about which you are commenting.

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

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

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

KENNISGEWING 400 VAN 2005**DEPARTMENT VAN OMGEWINGSKE EN TOERISME****UITNODIGING OM KOMMENTAAR TE LEWER RAKENDE DIE TOEKENNING EN BESTUUR VAN LANGTERMYN VISVANGREGTE IN DIE STOKVIS TREILVANGS (DIEPSEE), PATAGONIESE TANDVIS, KLEIN PELAGIES (ANSJOVIS EN SARDYN BEURSEIN) EN SUIDKUS-KREEF VISSERYE 2005.**

Die Minister van Omgewingsake en Toerisme reik hiermee, vir kennisname en kommentaar, 'n konsep visserij beleid uit rakende die toekenning en bestuur van langtermyn kommersiële visvangregte. Belanghebbende en geïntereseerde partye word uitgenooi om skriftelike kommentaar in verband met hierdie Konsep Beleide rakende die die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte 2005 in te dien op die wyse soos aangedui in hierdie kennisgewing.

1. Stokvis Treilvangs (Diepsee) (Engels Aanhangsel A, Afrikaans – Aanhangsel B)
2. Treilvangs (Kusslyn)l (Engels - Aanhangsel C, Afrikaans – Aanhangsel D)
3. Marsbanker ("Horse Mackerel") (Engels - Aanhangsel E, Afrikaans – Aanhangsel F)
4. Kwa-Zulu Natal Garnaal Treilvangsl (Engels - Aanhangsel G, Afrikaans – Aanhangsel H)
5. Patagoniese Tandvis (Engels - Aanhangsel I, Afrikaans – Aanhangsel J)
6. Klein Pelagies- (Ansjovis en Sardein Beursein) (Engels - Aanhangsel K, Afrikaans – Aanhangsel L)
7. Suidkus Kreef (Engels - Aanhangsel M, Afrikaans – Aanhangsel N)

IN DIE GEVAL VAN TEENSTRYDIGHEID TUSSEN DIE ENGELSE EN AFRIKAANSE TEKS, SAL DIE ENGELSE TEKS VERKIES WORD

Hierdie visserij-spesifieke beleide moet saam gelees word met die Konsep Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte 2005. Belanghebbende partye kan skriftelike kommentaar by die Departement indien tot 17h00 op Maandag 4 April 2005, op die wyse hieronder uiteengesit.

Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar By Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieerseenheid Landsdown Road 11 Claremont Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar
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Geliewe te bevestig op welke visserij kommentaar gelewer word.

Afskrifte van al die konsep beleide is ook beskikbaar op die Departement se amptelike webruimte by www.mcm-deat.gov.za. Skriftelike kopieë kan ook afgehaal word by die Departement se visserij beheer kantore langs die kus. Meer inligting rakende die Lang-Termyn Regte Toekenningsproses kan gekry word by die volgende hulplyn : 0861 123 626

Geliewe daarop te let dat kommentaar ontvang na die sluitingsdatum geïgnoreer kan word.

Telefoniese navrae rakende die indiening van kommentaar kan gerig word aan die Regte Verifikasie Eenheid by (021) 670-3669.

ANNEXURE A

DRAFT



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

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1. Introduction

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

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Hake Deep Sea Trawl Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 Hake Deep Sea Trawl Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Hake Deep Sea Trawl Policy Comments By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Hake Deep Sea Trawl Policy Comments
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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 Department when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this draft policy. A Hake 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 of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate hake deep-sea trawl commercial fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 (*"the MLRA"*) to a senior official of the Department.

2. Sector Profile

Commencing in 1890, the deep-sea trawl fishery is South Africa's most important and financially lucrative fishery. Until 1978 this fishery was largely unregulated and participants were not restricted to any maximum fishing limits. Since 1978 the hake trawl fishery has been managed in terms of an annual total allowable catch ("TAC") that has remained remarkably stable. Between 1978 and 2004 the TAC fluctuated between the levels of 140 000 tons (1979) and 133 000 tons (2004). Ninety percent of all hake trawl catches are made up of deep-water hake. The remaining ten percent are shallow-water hake and by-catch of kingklip, monk and other species. The hake deep-sea trawling grounds are located on the Cape west and south coasts. Trawling is focused primarily on three fishing grounds located at depths in excess of 110 metres (at least 20 miles offshore).

The Department manages the hake deep-sea trawl fishery as part of a "*hake collective*". In terms of the MLRA a "*global*" TAC for all hakes is set annually by the Minister of Environmental Affairs and Tourism. Of the global TAC, the hake deep-sea trawl fishery is allocated 83 percent. The balance is shared between the long-line, handline and inshore trawl fisheries. Until 2004, 1 000 tons was set aside for foreign fishing. This allocation will be discontinued.

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 percent are held by persons from historically disadvantaged communities, while 40 percent are held by women. Working conditions in the hake deep-sea trawl are 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 crew (including skippers) is R63 000 per annum. Many of the larger deep-sea trawl fishing companies are registered with the "**Proudly South African**" campaign, which confirms their commitment to nation building initiatives and , fair labour practices.

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 exceed R700 million. The

market value of the landed catch is worth approximately R1,4 billion annually. 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 controlled 92 percent of the TAC. In 2004, the five largest companies shared less than 75 percent of the hake resource. As importantly, 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 is 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-all 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 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. Principal among these obligations is the need to ensure

the long-term sustainable utilisation of hake stocks and to manage all known impacts on the marine ecosystem that is affected by trawling. This includes measures to prevent and reduce by-catch.

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

- Improve the transformation profile of the hake deep-sea trawl fishery;
- Redistribute the TAC among the right-holders in terms of transformation criteria and criteria aimed at rewarding small- and medium-sized enterprises ("SME's") that performed in accordance with their permit conditions;
- Exclude medium-term right-holders with weak or non-existent performance records or with no investment or involvement in the fishery;
- 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 number of quality full-time jobs provided;
- the need to maintain the economic stability and increase the international competitiveness of the fishery; and
- the fact that the deep-water hake resource is well managed in terms of reliable and current data,

the Department intends to allocate commercial rights for a period of 15 years (01 January 2006 to 31 December 2020), and subject to review at regular intervals against predetermined performance criteria, including the attainment of agreed transformation goals. (*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.

Although no additional participants would be allowed to enter the hake deep-sea trawl fishery, new entrant applicants will be considered where appropriate. Current right-holders that have not effected the transformation objectives to which they committed themselves in their respective medium-term right applications and that have not invested or become involved in the fishery over the medium-term period may be replaced with a suitable new entrant. New entrant applicants will be granted rights if they –

- are significantly transformed in respect of both ownership and management;
- are not fronts for other companies;
- have immediate access to a suitable vessel(s) and to the capital required to finance a hake deep-sea trawl operation.

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 Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the Applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine), will not be allocated a hake deep-sea trawl right. Right-holder applicants, including the directors or controlling shareholders, that have had a fishing right cancelled, suspended or revoked in terms of the MLRA will also not be allocated a hake deep-sea trawl fishing right.

Decisions will be reserved on applications from right-holders that are being investigated for breaches of the MLRA. A decision will be made after the completion of such an investigation.

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

(a) Transformation

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

- The percentage black and women representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representivity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the Fishery

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

- Investments in suitable vessels. In this regard, investment in the form of shareholding will be considered. Right-holder applicants will not be

rewarded for having concluded charter agreements, catching agreements or vessel purchase agreements;

- Investments in processing and marketing infrastructure. In this regard, the Department will reward right-holder applicants that have invested in hake processing factories and marketing initiatives.

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

(c) Performance

Right-holder applicants that significantly over- and under-caught (more than 10 percent of their allocations) over the medium-term period will be penalised. Financial performance will be measured as indicated in the General Fisheries policy.

(d) Value-Adding

The Department may have regard to the ability of right-holder applicants to add value to hake through processing. New entrant applicants will be required to indicate how they intend to add maximum value to hake through processing.

(e) Jobs

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

Applicants that have provided or undertake to provide their employees with –

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

will be positively scored. In the case of right-holder applicants, jobs created per tonnage fish allocated during the medium-term rights allocation process will be assessed and taken into account.

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

(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 monk (*Lophius vomerinus*), is of particular concern. Present catch rates indicate that catches 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 Department will 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 Department, in applying the precautionary management principle, will positively score those applicants that have been practising or who indicate how their trawling operations will –

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

(h) Local Economic Development

The Department will positively score those applicants, particularly smaller right-holders and new entrant applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas such as Port Elizabeth and Cape Town, but this will 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

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

7.3 Quantum criteria

In respect of right-holders, the Department will use as a basis the 2005 allocations, add proportionately the TAC of right-holders that were excluded and then apply the following re-distribution mechanisms:

- (a) Transformation pool:** 10 percent of the hake deep-sea trawl TAC will be re-distributed in accordance with transformation scores;
- (b) Performance:** 20 percent of the hake deep-sea trawl TAC will be re-distributed in accordance with the over-all comparative balancing scores achieved by each successful applicant (other than transformation);
- (c) Small and Medium sized enterprises:** 10 percent of the hake deep-sea trawl TAC will be set aside for affirming all those successful applicants that are small- or medium-sized enterprises. Small- and medium-sized entities

applicants are, *inter alia*, entities with an annual turnover that did not exceed R5 million for medium-sized operations and R3 million for small operations.

Any successful new entrant applicant will be allocated the smallest amount allocated to a successful right-holder applicant.

8. Suitable Vessels

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

- Certified 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 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, which are fisheries reserved for fishers reliant on those fish stocks for their income or the majority of their income.

10. Application fees and levies

The application fee for the hake deep-sea trawl fishery will be set having regard to:

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

reviews. In this regard the costs incurred during the medium-term process will be considered; and

- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with affected and interested parties.

11. Management measures

The management measures 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 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 Monopolisation

While the Department will encourage the consolidation of right-holders in this fishery, the Department is opposed to monopolies which may operate to the detriment of smaller right-holders. The Department 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 : Longline

The current TAC ratio of trawl : longline will by and large be maintained. The ratio will however be reviewed once further data becomes 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.

13. Observer programme

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

14. Permit conditions

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

ANNEXURE B

KONSEP



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 KONSEPBELEID MOET SAAMGELEES WORD MET DIE
KONSEP VAN 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 dokument is 'n konsepbeleid vir openbare kommentaar oor die toekenning en bestuur van kommersiële visvangregte in die diepsee stokvis-treilvangvisserij (of diepsee stokvis-treilvisserij) soos uitgereik deur die Departement van Omgewingsake en Toerisme: Tak Mariene- en Kusbestuur ("die Departement"). Die konsepbeleid moet saamgelees word met die Konsep van die Algemene Beleid aangaande die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid"). Belanghebbende en geaffekteerde partye mag skriftelik kommentaar indien by die Departement teen 4 April 2005. Opermakings wat na hierdie datum ontvang word sal nie in aanmerking kom nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieeringsseenheid Landsdown Road 11 Claremont Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar
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Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die diepsee stokvis-treilvisserij uiteen te sit. Min van hierdie oorwegings is nuut. Hulle is in die verlede deur die Departement gebruik by die toekenning van regte. Hierdie beleid verteenwoordig tewens 'n dokumentasie van sodanige oorwegings.

Sekere voorgenome bestuursbeleidsrigtings verskyn ook in hierdie konsepbeleid. 'n Bestuurshandboek vir die Diepsee Stokvis-treilvisserij sal met al die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handboek sal in die fynste besonderhede die toepaslike bestuursmetodes en -prosedures vir die bedryf uitstippel.

Die Minister van Omgewingsake en Toerisme is voornemens om artikel 18-magte, in terme waarvan kommersiële visvangregte van die diepsee stokvis-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.

2. Sektorale profiel

Die diepsee treilvisserij is sedert die aanvang daarvan in 1890 Suid-Afrika se belangrikste en finansiële mees winsgewende visserij. Tot 1978 was hierdie visserij hoofsaaklik ongereguleerd en deelnemers is nie beperk tot maksimum vangspere nie. Sedert 1978 is die stokvis-treilvisserij bestuur ingevolge 'n jaarlikse totale toelaatbare vangs (TTV) wat merkwaardig stabiel gebly het. Tussen 1978 en 2004 het die TTV gewissel tussen 140 000 ton (1979) en 133 000 ton (2004). Negentig persent van alle stokvis-treilvangste bestaan uit diepsee stokvis. Die orige tien persent beslaan vlak-water stokvis en byvangste van koningklip, monnikvis en ander spesies. Die diepsee stokvis se treilvisserijgebied is geleë aan die Kaapse wes- en suidkus. Treilvisserij word hoofsaaklik gefokus op drie visvanggebiede geleë op dieptes van meer as 110 meter (minstens 20 myl van die kus af).

Die Departement bestuur die diepsee stokvis-treilvisserij as deel van 'n "stokvis-kollektief". Ingevolge die WLMH word 'n globale TTV vir alle stokvis jaarliks deur die Minister van Omgewingsake en Toerisme vasgestel. Van die globale TTV word 83 persent van die TTV aan diepsee stokvis-treilvisserij toegeken. Die res word gedeel deur die langlyn-, handlyn- en kustreilvisserij. Tot 2004 is 1 000 ton opsy gesit vir buitelanders. Hierdie toekenning sal gestaak word.

Die diepsee stokvis-treilvisserij onderhou ongeveer 8 800 regstreekse werksgeleenthede langs Suid-Afrika se wes- en suid-oostelike Kaapse kus. Uit hierdie werksgeleenthede word 90 persent gevul deur persone uit histories benadeelde gemeenskappe, terwyl vroue 40 persent van die werkers uitmaak. Werksomstandighede in die diepsee stokvis-treilvisserij word beskou as beter as in ander visserie. Die meeste 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 die kaptein) is R63 000 per jaar. Baie van die groter diepsee treilvisvangmaatskappye is geregistreer by die "**Trots Suid-Afrikaans**"-veldtog wat hulle verbintenis tot nasiebou-inisiatiewe en billike arbeidspraktyke bevestig.

Die diepsee stokvis-treilvisserij is 'n uiters kapitaal-intensiewe visserij. Bestaande deelnemers het aansienlike beleggings in vaartuie sowel as prosesserings- en bemarkingsinfrastruktuur gemaak. Die totale waarde van bates in die visserij word op meer as R700 miljoen geskat. Die markwaarde van die jaarliks gelande vangste is ongeveer R1,4 biljoen. Hoewel vaartuie so klein as 30 meter lank in die visserij gebruik word, is 66 persent van diepsee treilers tussen 45 meter en 50 meter lank. Vaarte 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 beheer. In 2004 het die vyf grootste maatskappye, minder as 75 persent van die stokvisbronne gedeel. Net so belangrik, is dat in 1992 die kleinste kwota 50 ton was 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 dus 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 bedryf. Inligting oor medium-termyn toekennings dui daarop dat:

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

4. Oorloepende sektorale doelwitte.

Die Suid-Afrikaanse diepsee stokvis-treilvisserij is die enigste stokvis-visserij in die wêreld waaraan die gesaghebbende **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 kom.

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 verpligtings op nasionale, streeks- en internasionale vlakke wanneer visvangregte toegeken word. Hieronder tel die behoefte om die langtermyn volhoubare gebruik van stokvisvoorraad te verseker en om al die bekende impakte op die mariene ekosisteem wat deur treilvisserij beïnvloed word, te bestuur. Dit sluit in maatreëls wat byvangste 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 te verbeter;
- weer die TTV onder die regtehouers te versprei ingevolge transformasiekriteria en kriteria wat daarop mik om ondernemings van klein en medium formaat ("KMO's") wat hul permitvoorwaardes nagekom het, te beloon;
- medium-termyn regtehouers met swak of geen prestasierekords of met geen belegging in, of betrokkenheid by die visserij, uit te sluit;
- 'n belegging- en werkskeppingsvriendelike omgewing te skep; en
- die ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die visserij te ondersteun.

5. Tydperk

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 aantal voltydse werkseleenthede van gehalte wat voorsien word;
- die behoefte om ekonomiese stabiliteit in stand te hou en internasionale mededinging van die vissery te verhoog; en
- die feit dat die diepsee stokvisbron goed bestuur word ingevolge betroubare en lopende data,

is die Departement voornemens om kommersiële regte vir 'n tydperk van 15 jaar (1 Januarie 2006 tot en met 31 Desember 2020) toe te ken en, onderworpe aan hersiening op gereelde grondslag teenoor voorafbepaalde prestasiekriteria, soos die bereiking van ooreengekome transformasiedoelwitte (*sien verder paragraaf 12 hier onder*).

6. Nuwe inkomelinge

Die diepsee stokvis-treilvissery het tans te veel (53) deelnemers. Die onlangse hoë vlak van bevisting vereis dat 'n konserwatiewe bestuursplan toegepas word. Hierdie bestuursplan, wat oor die afgelope drie jaar toegepas is, vereis 'n geleidelike afname in die TTV.

Hoewel geen bykomende deelnemers toegelaat sal word tot die diepsee stokvis-treilvissery nie, sal nuwe inkomelinge se aansoeke tog oorweeg word. Huidige regtehouers wat nog nie die transformasiedoelwitte in werking gestel het waartoe hulle hulself verbind het in hulle onderskeie medium-termyn regte-aansoeke en wat nog nie belê het in, of betrokke geraak het by die vissery oor die medium-termyn tydperk nie, kan vervang word deur 'n geskikte nuwe inkomeling. Nuwe inkomeling-aansoekers sal regte ontvang indien hulle -

- wesenlik getransformeerde is in verband met beide eienaarskap en bestuur;
- nie as fronte vir ander maatskappye optree nie;
- onmiddellike toegang het tot geskikte vaartuig/vaartuie en tot die nodige kapitaal om 'n diepsee stokvis-treilvissery te finansier.

7. Evaluasiekriteria

Alle aansoeke sal ingevolge 'n stel "*uitsluitingskriteria*" gesif word. Nuwe aansoekers en vorige regtehouers se aansoeke sal daarna apart nagegaan word volgens 'n stel gelaaide "*vergelykende balanseringskriteria*". 'n Afsnypunt vir telling of rang sal dan vasgestel word ten einde die suksesvolle aansoekers te kies. 'n Gedeelte van die TTV sal dan aan elk van die suksesvolle aansoekers toegeken word ingevolge 'n stel "*kwantumkriteria*".

7.1 Uitsluitingskriteria

Behalwe die kriteria beskryf in die algemene beleid met betrekking tot die onbehoorlike indiening van die aansoeke en wesenlike tekortkominge, sal die Departement 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, Wet 69 van 1984 en die Maatskappyywet, Wet 61 van 1973 sal in aanmerking kom. Aansoeke van natuurlike persone (d w s individue of eenmansake) en trusts sal nie oorweeg word nie.

(b) **Wetsnakoming:** Visvangregte vir diepsee stokvis-treilvisserij sal nie toegeken word nie aan regtehouers, insluitende die direkteure of beherende aandeelhouders wat skuldig bevind is aan 'n misdryf ingevolge die WLMH (sonder die opsie om 'n boete te betaal), die Seewet, die Konvensie, deklarasie of verdrag van CCAMLR, of die bepalings van enige ander land se mariene en/of visserij se wette. Regte sal ook nie toegeken word nie aan regtehouer-aansoekers, insluitende die direkteure of beherende aandeelhouders wie se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH.

Besluite sal voorbehou word op aansoeke van regtehouers wat ondersoek word vir oortredings van die WLMH. 'n Besluit sal geneem word nadat die ondersoek afgehandel is.

Die Departement verwag dat elke regte-houer 'n heffing betaal op die teikenspesies van visvangste. 'n Aantal regtehouers het òf nog nie heffings betaal nie of nie die hoeveelheid van die vangste korrek aangemeld nie om daardeur onder andere die betaling van heffings te vermy. Laasgenoemde sal uitgesluit word. Eersgenoemde sal gepenaliseer word in die vergelykende balanseringsproses soos hier onder uiteen gesit. Sou sodanige aansoeker egter nietemin vir 'n reg kwalifiseer sal 'n visvangpermit nie uitgereik word nie, alvorens die uitstaande heffings (plus rente) by die Departement betaal is.

- (c) **Papier-kwota's:** Papier-kwota's soos uiteengesit 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 hier onder vir die definisie van 'n geskikte vaartuig*).

7.2 Vergelykende balanseringskriteria

Aansoekers wat regte hou asook potensiële nuwe inkomelinge sal evalueer word ingevolge die volgende balanseringskriteria en die aansoeke sal dan opgeweeg word teen mekaar ten einde die sterkte van elke aansoek te bepaal.

(a) Transformasie

Een van die Departement se doelwitte tydens die proses om langtermyn visvangregte in hierdie visserij toe te ken, is om die huidige vlakke van transformasie te verbeter. Soos deur die Algemene Visserijbeleid vasgestel sal die aansoekers evalueer word volgens -

- Die persentasie swart persone en vroue wat op eienaarsvlakke en uitvoerende bestuursvlakke verteenwoordig is;
- Of werknemers aandeelhouders van die aansoeker is en die voordele wat hulle hieruit kry;
- Regstellende aankope;
- Die aantal swarte persone en vroue op die verskillende vlakke benede uitvoerende bestuur;

- Wetsnakoming aan die Wet op Diensbillikheid, Wet 55 van 1998; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die vissery

Met betrekking tot bestaande regtehouer aansoekers sal die Departement die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie. In hierdie verband sal beleggings in die vorm van aandeelhouding in aanmerking geneem word. Aansoekers wat regte hou sal nie beloon word vir die aangaan van huurooreenkomste, vangste-ooreenkomste of koopkontrakte nie;
- Beleggings in prosesserings- en bemarkingsinfrastruktuur. In hierdie verband sal die Departement regtehouers wat in stokvisprosesseringsfabrieke en bemarkingsinisiatiewe belê het beloon.

Betreffende nuwe aansoekers, sal die Departement oorweging gee aan beleggings gemaak in die vorm van vaartuie, prosesserings- en bemarkingsinfrastruktuur. Verder sal nuwe aansoekers moet aantoon dat hulle die kennis, vaardigheid en vermoë het om aan die diepsee stokvis-treilvissery te kan deelneem.

(c) Prestasie

Regtehouer-aansoekers wat aansienlike hoeveelhede minder of meer as hulle toekennings gevang het (meer as 10 persent van hulle toekennings) gedurende die medium-termyn tydperk sal gepeenaliseer word. Finansiële prestasie sal gemeet word soos in die Algemene Visserybeleid aangedui.

(d) Waardetoevoeging

Die Departement sal die vermoë van regtehouers om waarde tot die stokvis toe te voeg met prosessering in aanmerking neem. Van nuwe inkomeling-aansoekers sal

verwag word om aan te dui hoe hulle voornemens is om die maksimum waarde by stokvis toe te voeg deur middel van prosessering.

(e) Werksgeleenthede

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

Aanzoekers wat werknemers voorsien het van, of van voorneme is om die volgende te voorsien –

- Voltydse indiensneming;
- Mediese bystand en pensioen;
- Enige ander indiensnemingsvoordele; en
- Veilige werksomstandighede,

sal positief evalueer word. In die geval van regtehouers sal werksgeleenthede geskep word per ton vis, toegeken gedurende die medium-termyn toekenningsproses bepaal word en in aanmerking geneem word.

Die Departement sal ook die loonverskille tussen die hoogste en laagste besoldigde werknemers in aanmerking neem.

(f) Byvangste

Die Hoeveelheid byvangste wat deur deelnemers aan die diepsee stokvis-treilervissery geland word bly 'n bron van kommer vir die Departement. Die teiken van hoë-waarde byvangspesies soos koningklip (*Genypterus capensis*) en monnikevis (*Lophius vomerinus*), is veral kommerwekkend. Huidige vangskoerse dui daarop dat vangste van albei spesies nie volhoubaar is nie. Koningklip-talrykheid aan die suidkus is veral baie laag.

Die Departement het bepaal dat die maksimum jaarlikse byvangs vir koningklip tot 3 000 ton beperk word en dié vir monnikevis tot 7 000 ton. Hierdie byvangs-toelating is van toepassing op die stokvisbedryf as geheel. Bestaande regtehouer aanzoekers sal moet demonstreer watter byvangstempering en verminderingsmaatreëls hulle in

werking gestel het , of in die geval van nuwe aansoekers, watter metodes hulle sal toepas om te verseker dat hulle sal voldoen aan bogenoemde byvangsbepenkings. Die Departement sal ook in ag neem watter maatreëls ingestel is of ingestel sal word om byvangste van snoek (*Thyrsites atun*) te verminder.

(g) Omgewingsvolhoubare praktyke

Dit is bekend dat treilvisserij skade aan die seabodem berokken. Tot op datum is daar te min data om beskikbaar om sodanige skade te kwantifiseer. In terme van die voorsorgbestuursbeginsel sal die Departement daardie aansoekers beloon wat die volgende metodes van treilvisvangste reeds beoefen of wat aandui hoe hulle dit sal beoefen -

- Aansienlike vermindering van skade aan die seabodem; en
- Meer energie- en brandstof-doeltreffendheid (ook van toepassing op prosesseringsfabrieke).

(h) Plaaslike ekonomiese ontwikkeling

Die Departement sal aansoekers (veral kleiner regtehouers en nuwe aansoekers) bevoordeel wat verkies om hulle vangste te land en te laat proses in sentrums buite die groter metropolitaanse gebiede soos Port Elizabeth en Kaapstad. Dit sal egter nie lei daartoe dat die groter regtehouers van diepsee stokvis-treilvisserij wat aansienlike beleggings in proses- en bemarkingsfasiliteite in Kaapstad en Port Elizabeth gemaak het, gepeenaliseer sal word nie.

(i) Onbetaalde heffings

Regtehouers sal gepeenaliseer word indien hulle heffings agterstallig is vir 'n tydperk langer as 60 dae vanaf die datum van die aansoek nie.

(j) Wetsnakoming

Aanzoekers wat versuim om te voldoen aan hulle verpligtings ingevolge die Wet op Vaardigheidsontwikkeling, 97 van 1998 en die Wet op Heffing van Vaardigheidsontwikkeling, 9 van 1999, en diegene wat geringe oortredings van die WLMH begaan het (d w s oortredings wat nie hulle uitsluiting regverdig nie) sal geenaliseer word.

7.3 Kwantumkriteria

Ten opsigte van regtehouers sal die Departement die 2005-toekennings as basis gebruik, proporsioneel die TTV van regtehouers wat uitgesluit is, byvoeg en dan die volgende meganismes vir herverdeling toepas:

- (a) **Transformasie-poel:** 10 persent van die diepsee stokvistreilvisserij se TTV sal herversprei word ooreenkomstig punte vir transformasie;
- (b) **Prestasie:** 20 persent van die diepsee stokvistreilvisserij se TTV sal herversprei word, ooreenkomstig die oorkoepelende vergelykende balanseringspunte wat elke suksesvolle aansoeker behaal het (behalwe transformasie);
- (c) **Klein- en medium-grootte ondernemings:** 10 persent van die diepsee stokvistreilvisserij se TTV sal opsy-geëet word om suksesvolle aanzoekers wat klein- of medium-grootte ondernemings het te bevoordeel. Klein- of medium-formaat entiteite word gedefinieer as dié met 'n jaarlikse omset van nie meer as R5 miljoen vir die medium-formaat en R3 miljoen vir die klein-formaat onderneming nie.

Enige suksesvolle nuwe aansoeker sal die kleinste hoeveelheid toegeken word wat aan 'n suksesvolle regtehouer toegeken word.

8. Geskikte vaartuie

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

- By SAMVV gesertifiseer is met 'n minimum geregistreerde lengte van ongeveer 30 meter;

- Toegerus is om met die treilnetmetode vis te vang; en
- Toegerus is met 'n werkende vaartuigmoniteringstelsel.

9. Multi-sektorale betrokkenheid

Regtehouers in die diepsee stokvistreilvisserij word nie daarvan uitgesluit om regte in enige ander visserij in die Groep A- en Groep B visserij te hou nie. Regtehouers in die diepsee stokvistreilvisserij (insluitende hulle beherende aandeelhouers en lede van hulle uitvoerende bestuursplan) sal nie toegelaat word om kommersiële visvangregte in die Groep C- en Groep D visserij te hou nie. Hierdie sektore word gereserveer vir vissers wat op die visbron staatmaak vir hulle inkomste of die grootste deel van hulle inkomste.

10. Aansoekgelde en heffings

Die aansoekgeld vir die diepsee stokvistreilvisserij sal vasgestel word met inagneming van die volgende:

- die koste van die algehele regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings. In hierdie verband sal die koste aangegaan gedurende die mediumtermyn proses as riglyn dien; en
- die waarde van die vis wat toegeken word oor die duurtyd van die reg.

Die jaarlikse heffings wat betaalbaar is met ingang vanaf 1 Januarie 2006 sal hersien word na oorlegpleging met die geaffekteerde en belanghebbende partye.

11. Bestuursmaatreëls

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

11.1 Ekosisteembenadering tot bestuur van vissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die bestuur van visserye (EBV). 'n Ekosisteembenadering tot die bestuur van die vissery is 'n holistiese en geïntegreerde beleid wat erkenning gee daaraan dat visvang en verwante aktiwiteite op land die breë mariene omgewing kan beïnvloed. Hierdie deel van die beleid vir die diepsee stokvistreilvisserie, is egter nie daarop gerig om 'n beleidsverklaring te maak oor EBV in die diepsee stokvistreilvisserie nie. Die EBV in die diepsee stokvistreilvisserie sal verder uiteengesit word in die Bestuurshandboek vir die Diepsee Stokvis-treilvisserie. Suid-Afrika bly verbind tot 'n teikendatum van 2010 vir die inwerkingstelling van 'n EAF in die kommersiële vissery.

11.2 Konsolidasie van deelnemers

Na die toekenning van kommersiële visvangregte vir 15 jaar in hierdie vissery sal die Departement die konsolidasie van aktiewe regtehouers in die vissery fasiliteer, veral waar:

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

Konsolidering van regtehouers is egter onderhewig aan die Departement se benadering tot monopolieë (sien paragraaf 11.5 hier onder).

11.3 Bestuursgebiede van visvangbedrywe 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 gevestig word, sal die oes van stokvis effektief verdeel word in drie aparte 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 visvangebiede deur stokvistreil- en stokvis-langlynvisserie te ontmoedig. 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 potensiele konflik tussen treilvisser en langlynvisser uit te skakel.

11.4 Vaartuie en vangspogings

Daar is tans 100 diepsee treilvaartuie vir stokvis wat in Suid-Afrikaanse waters vang. Die meerderheid hiervan is ouer vaartuie wat vervang moet word. 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

Hoewel die Departement konsolidasie van regtehouers in die vissery sal aanmoedig, is die Departement gekant teen monopolieë wat tot nadeel van die kleiner regtehouers kan strek. Die Departement is veral bekommerd dat die kleiner regtehouers in die vissery nie in staat is om die waarde van hulle toekennings ten volle te realiseer nie. 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 : langlynbedryf sal oor die algemeen behou word. Die verhouding mag egter hersien word indien verdere data oor die impak van die onderskeie bedrywe beskikbaar word.

12. Prestasiemeting

Die Departement sal 'n aantal formele ondersoek instel om prestasie in die benutting van regte te meet. Daar word beoog om die eerste prestasiebepalings na twee jaar uit te voer en daarna elke drie jaar.

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

- transformasie;
- belegging in vaartuie, fabrieke en toerusting;
- volhoubare gebruik en veral byvangstetemperering en –vermindering, en die biologiese en ekologiese gevolge van treilvisvang;
- wetsnakoming van toepaslike wette en regulasies.

13. Waarnemerprogram

Die Departement se huidige waarnemerprogram sal uitgebrei word om waarneming vir wetstoepassingsdoeleindes in te sluit. Verder sal die Departement die waarneming van hierdie vissery stelselmatig uitbrei. Van regtehouers sal verwag word om die koste van die waarnemingsprogram te dra.

14. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery sal jaarliks uitgereik word. Die permitvoorwaardes van toepassing vir hierdie vissery vir die 2005-seisoen word as **Bylae A** aangeheg. Belanghebbende en geaffekteerde partye word uitgenooi om op hierdie permitvoorwaardes kommentaar te lewer.

ANNEXURE C

DRAFT



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

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1. Introduction

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

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Inshore Trawl Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 Inshore Trawl Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Inshore Trawl Policy Comments By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Inshore Trawl Policy Comments
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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 Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

Certain post-rights allocation management policies are also presented in this draft policy. 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 of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate inshore trawl commercial fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 (*"the MLRA"*) to a senior official of the Department.

2. Sector profile

The inshore trawl fishery has a significantly shorter commercial history than its counterpart, the deep-sea trawl fishery. The inshore trawl fishery was pioneered during the 1900's. However, 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. The inshore trawl fishery continues to target these species.

As was the case with the deep-sea trawl fishery, the inshore trawl fishery was largely unregulated until 1978 when participants were not restricted to a maximum catch limit. Since then, the inshore trawl fishery has been managed in terms of a total allowable catch ("TAC") that has remained remarkably stable at around 6 percent of the global hake TAC.

The Department manages the inshore trawl fishery as part of a "*hake collective*". In terms of the MLRA, a "*global*" TAC for all hakes is set annually by the Minister of Environmental Affairs and Tourism. The deep-sea trawl fishery is allocated 83 percent of the TAC, the inshore trawl fishery 6 percent, and the balance is shared by the hake longline and handline sectors. Until 2004, 1 000 tons of hake were set aside for foreign fishing. This allocation will be discontinued.

Inshore trawl grounds are located between Cape Agulhas in the west and the Great Kei River in the east. Trawling for hake is focused on a single fishing ground located at depths shallower than 110 metres but at least five miles off shore.

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 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 R16 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 is 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. 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:

- Improve the transformation profile of the inshore trawl fishery;
- 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 number of quality full-time jobs provided;
- 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,

the Department intends to allocate commercial rights for a period of 10 years (01 January 2006 to 31 December 2015), subject to a review at regular intervals against predetermined performance criteria, including the attainment of agreed transformation goals. (*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.

The Department considers the current number of participants and fishing capacity (16 right-holders utilising 35 vessels) as optimal. However, the transformation profile of this fishery is below that of the fishing industry average (66 percent). The Department will therefore prefer new entrant applicants over existing right-holders that have not effected the transformation objectives committed to in their respective medium-term right allocation applications. New entrants may also be preferred over existing right-holders that have not invested substantially in the fishery over the period that they held a medium-term commercial right.

New entrant applicants will only be granted rights if they –

- are significantly transformed in respect of both ownership and management;
- are not fronts for other persons;
- have immediate access to a suitable vessel(s) and to the capital required to finance a hake inshore and sole trawling operation.

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 Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated an inshore trawl right. Right-holder applicants, including the directors or controlling shareholders, that have had any fishing right cancelled, suspended or revoked in terms of the MLRA will also not be allocated an inshore trawl fishing right.

Decisions will be reserved on applications from right-holders that are being investigated for breaches of the MLRA. A decision will be made after the completion of such an investigation.

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

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

(a) Transformation

The Department's objective 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 representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representivity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

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

- Investments in suitable vessels. Investment in the form of shareholding will be considered. Right-holder applicants will not be rewarded for having concluded charter agreements, catching agreements or vessel purchase agreements;
- Investments in processing and marketing infrastructure. The Department will 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 Department will consider what investments have been made in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate whether they have the knowledge, skill and ability to trawl for hake and sole.

(c) Performance

Right-holder applicants that significantly over and under-caught (more than 10 percent) will be penalised. Financial performance will be measured, as indicated in the General Fisheries policy.

(d) Value-Adding

The Department may have regard to the ability or intention of applicants to add to the value of hake and sole by processing fish products for local and international markets.

(e) Jobs

The inshore trawl fishery provides approximately 1 100 relatively high quality 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.

Applicants that provide, or undertake to provide, their employees with –

- full-time employment;
- medical aid and pension;
- any other employment benefits; and
- safe working conditions,

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

(f) By-catch

The volume of by-catch in the inshore trawl fishery remains of concern to the Department. The targetting 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 Department will positively score those applicants, particularly smaller right-holders and new entrant applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas such as Port Elizabeth and Cape Town, but this will not result in penalising the larger hake inshore trawl right-holders that have made substantial investments 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

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

7.3 Quantum criteria

In respect of right-holders, the Department will use as a base the 2005 allocations, add proportionately the TAC of right-holders that were excluded and then apply the following re-distribution mechanisms:

- (a) **Transformation pool:** 30 percent of the hake and sole inshore trawl TAC will be redistributed in accordance with transformation scores;
- (b) **Performance (other than transformation):** 20 percent of the hake and sole inshore trawl TAC will be redistributed in accordance with the over-all comparative balancing score achieved by each successful applicant (other than transformation);
- (c) **Small- and medium-sized enterprises:** 10 percent of the hake and sole inshore trawl TAC will be set aside for affirming those successful applicants that are small- or medium-sized enterprises. Small- and medium-sized entity applicants are, *inter alia*, entities with an annual turnover that did not exceed R5 million for medium-size operations and R3 million for small operations.

Any new entrant will be allocated an amount equivalent to the smallest amount allocated to a successful existing right-holder.

8. Suitable vessels

A suitable vessel in the inshore trawl fishery is a vessel that:

- has a maximum SAMSA certified length of 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 controlling shareholders and members of their executive management team) will not be allowed to hold commercial fishing rights in the Cluster C and Cluster D fisheries.

10. Application fees and levies

The application fee for the inshore trawl fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews. In this regard the costs incurred during the medium-term process will be used as a guide; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with interested and affected parties.

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 of 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 to 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 Monopolisation

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

The Department will not at this stage determine a maximum threshold of the TAC that any one right-holder may hold or control but will monitor whether any larger right-holder acts in a manner contrary to fair competition practices.

11.6 TAC ratios– Trawl:Longline

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

12. Performance measuring

The Department will 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.

13. Observer programme

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

14. Permit conditions

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

ANNEXURE D

KONSEP



DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

**BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN
KOMMERSIËLE VISVANGREGTE IN DIE STOKVIS
KUSTREILVISSERY : 2005**

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

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Hierdie dokument is 'n konsepbeleid vir openbare kommentaar aangaande die toekenning en bestuur van kommersiële visvangregte in die stokvis kustreilvangvisserij en word deur die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur ("die Departement") uitgereik. Hierdie beleid moet saam met die Konsep van die Algemene Beleid aangaande die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid") gelees word. Belanghebbende en geaffekteerde partye kan skriftelike kommentaar teen 4 April 2005 indien. Kommentaar wat na hierdie datum ontvang word sal nie in aanmerking kom nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks: Nommer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieeringsseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar
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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. Min van hierdie oorwegings is nuut. Die Departement het hulle in die verlede gebruik om regte toe te ken. Hierdie beleid weerspieël sodanige beleid, maar 'n paar veranderinge en toevoegings is ingesluit.

Sekere voorgenome bestuursbeleidsrigtings vir die tydperk na toekennings, verskyn ook in hierdie konsepbeleid. 'n Bestuurshandboek oor Kustreilvisserij sal met die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handboek sal in fyn besonderhede die bestuursmetodes en -prosedures vir hierdie vissery uiteensit.

Die Minister van Omgewingsake en Toerisme is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte van die kustreilvisserij toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne, 18 van 1998 (WLMH) aan 'n senior beampte van die Departement te deleger.

2. Sektorale profiel

Die kustreilvisserij het 'n aansienlik korter kommersiële geskiedenis as sy meeganger, die diepsee reilvisserij. Die kustreilvisserij het gedurende die 1900s ontstaan. Dit is egter eers teen die 1950's dat die visserij kommersieel geword het toe kleiner treilers die visserij binnegekom het, om stokvis en die meer waardevolle Agulhas tongvis te teiken. Die kustreilvisserij teiken steeds hierdie spesies.

Soos in die geval van die diepsee reilvisserij, was die kustreilvisserij ook grotendeels ongereguleerd tot 1978, toe deelnemers nie tot 'n maksimum vangs beperk is nie. Sedert 1978 is die kustreilvisserij volgens 'n totale toelaatbare vangs (TTV) bestuur, wat merkwaardig stabiel gebly op ongeveer 6 persent van die globale stokvis TTV.

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 alle stokvissoorte vas. Die diepsee reilvisserij kry 83 persent van die TTV, die kustreilvisserij 6 persent en die res word verdeel tussen die stokvis-handlyn- en -langlynsektore. Tot en met 2004 is 1 000 ton stokvis opsygesit vir buitelandse vissers. Hierdie toekenning sal gestaak word.

Kustreilgebeide is gelê tussen Kaap Agulhas in die weste en die Groot Keirivier in die ooste. Treil vir stokvis fokus op 'n enkele visgrond geleë op dieptes vlakker as 110 meter maar minstens vyf myl van die kus af.

Die kustreilvisserij verskaf regstreekse werksgeleenthede vir ongeveer 1 100 persone. Ongeveer 90 persent van hierdie werksgeleenthede word deur swart persone gevul, en 42 persent deur vroue. Werksomstandighede in die kustreilvisserij word beskou as beter as dié wat ander visserij geld. Die meeste werknemers is 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 uit twee kamers bestaan: een vir die diepsee reilvisserij en een vir die kustreilvisserij. Die Bedingingsraad stel basiese indiensnemingsvoorwaardes vir hierdie visserij op.

Die kustreilvisserij is nie so kapitaal-intensief soos die diepsee reilvisserij nie, maar aansienlike beleggings in 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 ontskeep is jaarliks ongeveer R16 miljoen werd.

Stokvisvoorraad word tans ooreenkomstig 'n konserwatiewe strategie bestuur. Die TTV vir stokvis is jaarliks sedert 2003 verminder en verdere verminderings is moontlik.

3. Medium-termyn regtetoekenning

Soos in die geval van ander kommersiële visserij in Suid-Afrika is die kustreilvisserij histories deur 'n handjievol groot maatskappye in blanke besit oorheers. Die invoering van TTV in 1978 het kleiner maatskappye uit die visserij gedwing. In 1992 het elf groot maatskappye 35 treilers in die visserij visserij. Teen 2004 het 16 maatskappye 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 gaping tussen die grootste en die kleinste toekennings krimp dus.

Die "interne" transformasie van die tradisionele maatskappye en die toetreding van maatskappye in swart besit en onder swart bestuur sedert 1992, het die transformasieprofiel van die visserij wesentlik verbeter. Medium-termyn regtetoekenningsrekords wys dat:

- 50 persent van die kustreilvisserij tans in swart besit is:

- 69 persent van regtehouers is klein- en medium-grootte 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 doelwitte vir die toekenning van langtermyn visvangregte in hierdie vissery is om:

- die transformasieprofiel van die kustreilvisserie te verbeter;
- 'n beleggings- en werkskeppingsvriendelike omgewing te skep;
- die nadelige uitwerking van treilvisvang soos skade aan seebeddens, en byvangste te verminder; en
- die ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die vissery te ondersteun.

5. Tydsduur van regte

Met inagneming van -

- die transformasieprofiel van die vissery;
- die feit dat die huidige kustreilvloot verouderd is en vervang moet word;
- die aantal voltydse werksgeleenthede van gehalte wat voorsien word;
- die noodsaaklikheid om die huidige ekonomiese stabiliteit in die vissery te handhaaf; en
- die feit dat die kusbronne van stokvis en tongvis goed bestuur word volgens betroubare en huidige data,

is die Departement voornemens om kommersiële visvangregte vir 'n tydperk van 10 jaar toe te ken (1 Januarie 2005 tot en met 31 Desember 2015), onderhewig aan hersiening met gereelde tussenposes teenoor voorafbepaalde prestasiekriteria, soos die bereiking van ooreengekome transformasiedoelwitte (*sien paragraaf 12 hier onder*).

6. Nuwe inkomelinge

Stokvis en tongvis word tans bestuur volgens 'n herstelplan omdat daar tekens is dat hierdie voorrade besig is om af te neem. Boonop het die inname van nuwe inkomeling-aanzoekers 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.

Die Departement is van mening dat die huidige aantal deelnemers en die visvangpoging (16 regtehouers wat 35 vaartuie gebruik) optimaal is. Die transformasieprofiel van hierdie visserij is egter laer as die gemiddeld van die industrie (66 persent). Die Departement sal daarom nuwe aanzoekers verkies bo bestaande regtehouers, wat nog nie die transformasiedoelwitte uitgevoer het waartoe hulle hulself verbind het in hulle onderskeie medium-termyn regtetoekenningaansoeke nie. Nuwe inkomeling kan ook verkies word bo bestaande regtehouers wat nie wesentlik in die visserij belê het oor die medium-termyn regte periode nie.

Nuwe aanzoekers sal slegs regte toegeken word indien hulle –

- wesentlik getransformeerde is ten opsigte van besit en bestuur;
- nie as fronte vir ander persone optree nie;
- onmiddellike toegang tot 'n geskikte vaartuig/vaartuie het asook die nodige kapitaal om 'n stokvis- en tongvis-kustreilvisserij te finansier.

7. Evaluasiekriteria

Aansoeke sal volgens 'n stel "uitsluitingskriteria" gesif word. Nuwe aanzoekers en bestaande regtehouers wat aansoek doen sal daarna apart evalueer word in terme van 'n stel gelaaide "vergelykende balanseringskriteria". 'n Afsnypunt sal dan bepaal word om die suksesvolle aanzoekers te kies. 'n Deel van die TTV sal dan aan elke suksesvolle aansoeker toegeken word in terme van 'n stel "kwantumkriteria".

7.1 Uitsluitingskriteria

Behalwe kriteria beskryf in die algemene beleid oor die onbehoorlik indien van aansoeke en wesentlike tekortkominge sal die Departement 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 oorweeg word. Aansoeke van natuurlike persone (d w s individue en alleen-eienaars) en trusts sal nie in aanmerking kom nie.
- (b) **Wetsnakoming:** Visvangregte vir die kustreilvisserij sal nie toegeken word nie aan regtehouers, insluitende die direkteure of beherende aandeelhouders wat skuldig bevind is aan 'n oortreding ingevolge die WLMH (sonder die opsie om 'n boete te betaal). Verder sal 'n visvangreg vir die kustreilvisserij ook nie toegeken word nie aan regtehouers, insluitende die direkteure of beherende aandeelhouders wie se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH.

Besluite sal voorbehou word oor aansoeke van regtehouers wat vir oortredings van die WLMH ondersoek word. 'n Besluit sal geneem word nadat sodanige ondersoek afgehandel is.

Die Departement verwag van elke regtehouer om 'n heffing te betaal op geteikende vis wat geontskeep is. Daar is regtehouers wat of nog nie heffings betaal het nie, of wat vangste onderrapporteer het om onder andere betaling van heffings vry te spring. Laasgenoemde sal uitgesluit word. Eersgenoemdes (nie-betaling van heffings aan die Departement verskuldig) sal in die vergelykende balanseringskriteria soos hier onder uiteengesit, geïmponeer word. Indien sodanige aansoeker egter nogtans kwalifiseer vir 'n reg sal 'n visvangpermit nie uitgereik word voordat die volle bedrag (plus rente) betaal is nie.

- (c) **Papierkwota's:** Papierkwota's soos uiteengesit in die Algemene Beleid sal uitgesluit word.
- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal 'n reg van toegang tot 'n geskikte vaartuig moet bewys (*sien paragraaf 8 hier onder*).

7.2 Vergelykende balanseringskriteria

Regtehouer-aansoekers en potensiële nuwe aansoekers sal evalueer word in terme van die volgende balanseringskriteria, wat gelaai sal word om die sterkte van elke aansoek te bepaal.

(a) Transformasie

Die Departement se doel met die toekenning van langtermyn visvangregte in hierdie vissery is om die huidige transformasievlakke te verbeter. Soos in die Algemene Visvangbeleid bepaal word aansoekers evalueer volgens -

- die persentasie swart persone en vroue wat op besit- en uitvoerende bestuursvlak verteenwoordiging het;
- of werknemers aandeelhouders is en wat hulle daaruit kry;
- regstellende aankope;
- verteenwoordiging van swart persone en vrou op verskillende diensvlakke benede uitvoerende bestuur;
- Nakoming van die Wet op Diensbillikheid, 55 van 1998; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die vissery

Betreffende aansoekers wat regte hou sal die Departement spesifiek aandag gee aan:

- Beleggings in geskikte vaartuie. Belegging in die vorm van aandeelhouding sal oorweeg word. Regtehouers wat aansoek doen sal nie beloon word vir huur- of koopkontrakte of vangsooreenkomste nie;

- Beleggings in prosesserings- en bemarkingsinfrastruktuur. Die Departement sal aansoekers beloon wat in stokvis- en tongvis-prosesseringsfabrieke en bemarkingsinisiatiewe belê het.

Betreffende nuwe aansoekers sal die Departement oorweging gee aan watter belegging in die vorm van vaartuie, prosessering- en bemarkingsinfrastruktuur gemaak is. Verder sal nuwe aansoekers moet bewys of hulle die kennis, vaardigheid en vermoë het om te treil vir stokvis en tongvis.

(c) Prestasie

Regtehouer-aansoekers wat aansienlik meer of minder as hulle reg (meer as 10 persent) gevang het sal geenaliseer word. Finansiële prestasie sal gemeet word soos in die Algemene Beleid aangedui.

(d) Waardetoevoeging

Die Departement sal die vermoë van regtehouers om waarde by die stokvis en tongvis toe te voeg deur die prosessering van produkte vir die plaaslike en internasionale mark, in aanmerking neem.

(e) Werksgeleenthede

Die stokvis kustreilvisserij voorsien ongeveer 1 100 betreklik hoë kwaliteit werksgeleenthede. Salarisse vir seevarend werknemers beloop jaariks gemiddeld R35 000. Die meeste werknemers word voltyds in diens geneem met voordele soos mediese fonds en pensioen. Billike arbeidspraktyke kom oor die algemeen voor.

Aansoekers wat hulle werknemers voorsien van of voornemens is om hulle te voorsien van:

- Voltydse werk;
- Mediese bystand en pensioen;
- enige ander diensvoordele; en

- Veilige werksomstandighede,

sal positiewe punte kry. In die geval van bestaande regtehouers sal werksgeleenthede geskep per ton vis toegeken gedurende die medium-termyn regtetoekenningsproses evalueer word en in aanmerking kom. Die Departement sal ook kyk na die loonverskille tussen die hoogste en laagste besoldigde werknemers.

(f) Byvangs

Die hoeveelheid byvangste in die kustreilvisserij bly 'n bron van kommer vir die Departement. Veral die teikening van byvangspesies met hoë waarde soos koningklip (*Genypterus capensis*) en monnikevis ('Monk Fish') (*Lophius vomerinus*) is besonder kommerwekkend. Huidige vangskoerse dui daarop dat vangste van albei 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 bepaal en dié van monnikevis op 7000 ton. Hierdie byvangstoegewings is op die hele stokvisvisserij van toepassing. Voornemende aansoekers sal moet bewys watter byvangstempering en verminderingsmaatreëls hulle in werking gestel het of in die geval van nuwe aansoekers, in werking gaan stel om te verseker dat aan bogenoemde byvangsbepelings voldoen word.

(g) Plaaslike ekonomiese ontwikkeling

Die Departement sal positiewe punte toeken aan aansoekers van veral kleiner regtehouers en nuwe aansoekers wat verkies om hulle vangste te ontskeep en te laat proses in sentrums buite die groot metropolitaanse gebiede soos Port Elizabeth en Kaapstad. Dit sal egter nie penalisering van die groter stokvis-kustreilregtehouers wat wesentlik in prosesering- en bemarkingsfasiliteite in Kaapstad en Port Elizabeth belê het, tot gevolg hê nie.

(h) Nie-betaling van heffings

Regtehouers sal gepeenaliseer word indien hulle heffings vir langer as 60 dae voor die aansoekdatum uitstaande is.

(i) Wetsnakoming

Aanzoekers wat versuim het om aan hulle verpligtings te voldoen ingevolge die Wet op Vaardigheidsontwikkeling 97 van 1998, en die Wet op die Heffings van Vaardigheidsontwikkeling 9 van 1999 en diegene wat geringe oortredings van die WLMH begaan het (d w s oortredings wat nie hulle uitsluiting regverdig nie) sal gepeenaliseer word.

7.3 Kwantumkriteria

Die Departement sal in die geval van bestaande regtehouers, die kwantum toegeken gedurende die 2005-seisoen as basis gebruik, die TTV van bestaande regtehouers wat nie aansoek gedoen het nie of onsuksesvol was proporsioneel byvoeg en dan volgens die volgende meganismes verdeel:

- (a) Transformasiepoel:** 30 persent van die stokvis- en tongvis-kustreil TTV sal herversprei word volgens die transformasiepunte;
- (b) Prestasie (behalwe transformasie):** 20 persent van die stokvis- en tongvis-kustreil TTV sal herversprei word volgens die algehele vergelykende balanseringspunte wat deur elkeen van die suksesvolle aanzoekers behaal is (behalwe transformasie);
- (c) Klein- en medium-grootte ondernemings:** 10 persent van die stokvis- en tongvis-kustreil TTV word opsygesit om klein- en medium-grootte ondernemings te ondersteun. Klein- en medium-grootte entiteitaanzoekers is onder andere entiteite met 'n jaarlikse omset van nie meer R5 miljoen vir medium en R3 miljoen vir die klein ondernemings.

Enige nuwe inkomeling sal 'n hoeveelheid kry wat gelyk staan aan die kleinste hoeveelheid wat aan 'n suksesvolle bestaande regtehouer toegeken word.

8. Geskikte vaartule

'n Geskikte vaartuig in die kustreilvisserij is 'n vaartuig wat:

- 'n SAMVV-geregistreerde lengte van nie meer as 30 meter het;
- Toegerus is met 'n werkende vaartuigmoniteringstelsel.
- 'n maksimum perdekrags van 750 het; en
- toegerus is om tongvis en stokvis op 'n diepte van nie meer as 110m te vang.

9. Multi-sektorale betrokkenheid

Regtehouers in die kusstreilvisserij word nie verhoinder om regte in enige ander visserij in Groepe A en B te hou nie. Regtehouers in die kusstreilvisserij (insluitende hulle beherende aandeelhouers en lede van hulle uitvoerende bestuursspan) sal nie toegelaat word om kommersiële regte in Groepe C en D te hou nie.

10. Aansoekgelde en heffings

Die aansoekgeld vir die kusstreilvisserij word bepaal met die volgende oorwegings:

- die koste van die hele regtetoekenningsproses, insluitende konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings. In hierdie verband sal die koste aangegaan met die medium-termyn proses as riglyn gebruik word; en
- die waarde van die vis toegeken oor die tydskuur van die reg.

Die jaarlikse heffings wat op 1 Januarie 2006 betaalbaar is, sal na oorleg met geaffekteerde en belanghebbende partye hersien word.

11. Bestuursmaatreëls

Die bestuursmaatreëls wat hier onder bespreek word, dui op 'n paar van die Departement se hoofvoornemens vir bestuur van die visserij na regtetoekenning.

11.1 Ekosisteenbenadering tot bestuur van visvangvisserij

Hierdie visserij sal bestuur word ooreenkomstig die ekosisteenbenadering tot visserij (EBV). 'n Ekosisteenbenadering tot bestuur van die visvangvisserij is 'n holistiese en geïntegreerde beleid wat erken dat visvang- en verwante land-gebaseerde bedrywighede die breë mariene omgewing kan beïnvloed. Hierdie deel van die beleid aangaande kustreilvisvang probeer nie 'n beleidsverklaring oor EBV uitreik nie. Die EBV in die kustreilvisserij word in die Bestuurshandboek vir die kustreilvangvisserij uiteengesit. Suid-Afrika bly verbind tot 'n teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visvangvisserij.

11.2 Visserijbestuursgebiede

Die stokvis kustreilvisserij teiken twee stokvis-spesies en Agulhas tongvis binne 'n betreklik klein mariene gebied. Die Departement is bekommerd dat die intensiewe teikening van stokvis in hierdie gebied nie-volhoubare druk op lynvissoorte soos kabeljou en koningklip plaas. Die Departement is ook voornemens die deling van visgronde tussen treilers en langlynvisseries te verminder.

Artikel 15 van die Wet op Mariene Lewende Hulpbronne maak voorsiening vir die verklaring van visserijbestuursgebiede. Die Departement oorweeg om sodanige bestuursgebiede te verklaar om die byvangste van veral kabeljou en koningklip te probeer verminder en om die potensiële gebruikerskonflik tussen langlynvisseries en treilers aan te spreek.

11.3 Konsolidasie van deelnemers

Na afloop van die toekenning van 10-jaar kommersiële regte in hierdie visserij sal die Departement konsolidasie van die aantal aktiewe regtehouers fasiliteer veral :

- * Waar regtehouers dieselfde aandeelhouers, kantore of bestuurspan het;
of
- * Waar kleiner regtehouers verkies om hulle sakebedrywighede te konsolideer.

Konsolidasie van regtehouers is egter onderhewig aan die Departement se benadering tot monopolieë (*sien paragraaf 11.5 hier onder*).

11.4 Vaartuie en vangspoging

Daar is tans 35 kustreilervaartuie wat in Suid-Afrikaanse waters vang. Die meeste hiervan is verouderde vaartuie en moet vervang word. Opgradering van die vloot mag groter doeltreffendheid te weeg bring. Die Departement sal dus die stapeleffek van meer en nuwe vaartuie in die vloot versigtig evalueer. Regtehouers sal nie toegelaat word om vaartuie in te bring wat vangspoging ver bo hulle toekenning kan verrig nie. Verder sal die Departement die Visvangvisserij se Nywerheidsliggaam raadpleeg oor alle aansoeke om meer en nuwe vaartuie in die vissery in te bring.

11.5 Monopolieë

Hoewel die Departement konsolidasie van regtehouers in hierdie vissery sal voorstaan, is die Departement gekant teen monopolieë, wat tot nadeel van die kleiner regtehouers kan strek.

Op hierdie stadium sal die Departement nie 'n maksimum drempel van die TTV wat enige regtehouer mag hou of beheer, bepaal nie maar sal moniteer of groter regtehouers optree op 'n manier wat in stryd is met billike wedyweringspraktyke.

11.6 TTV-verhoudings - Treiler : Langlyn

Die huidige TTV verhouding van treilvangs : langlynvangs sal oor die algemeen gehandhaaf word. Die verhouding sal egter hersien word sodra verdere data oor die relatiewe impak van treilvangs en langlynvangs beskikbaar word.

12. Prestasiemeting

Die Departement sal 'n aantal formele ondersoeke instel om prestasie van regtehouers te meet. Daar word beoog om die prestasiebepalings na twee jaar uit te voer en dan elke drie jaar daarna.

Hoewel die Departement die presiese kriteria waarteen regtehouers gemeet sal word na toekenning van die kommersiële visvangregte en na oorleg met regtehouers sal finaliseer, kan die volgende prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie, fabrieke en toerusting;
- volhoubare gebruik en veral vermindering van byvangste en die ekologiese invloed van treilvisvang;
- nakoming van toepaslike wette en regulasies.

13. Waarnemerprogram

Die Departement se huidige waarnemerprogram sal uitgebrei, ten einde wetsnakoming in te sluit. Verder sal die Departement die waarneming van hierdie vissery stelselmatig uitbrei. Van regtehouers word verwag om die koste van die waarnemerprogram te dra

14. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery word jaarliks uitgereik. Die permitvoorwaardes van toepassing op hierdie vissery vir die 2005-seisoen word as **Bylae A** aangeheg. Belanghebbende en geaffekteerde partye word uitgenooi om oor hierdie permitvoorwaardes kommentaar te lewer. .

ANNEXURE E

DRAFT



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

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1. Introduction

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

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

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 Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

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

2. 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 maximum precautionary catch limit ("MPCL"). The MPCL 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 a time-series of abundance indices. The most reliable current abundance index is derived from the demersal trawl surveys using bottom trawl gear. However, 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 are inadequate because the primary research focus of monitoring surveys has been the assessment of established fisheries such as hake and sardine.

The horse mackerel fishery employs approximately 50 persons on board one midwater trawler. Of these 50 persons, only 16 are South African. 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 21 companies, of which five were new entrants. The new entrants were allocated 500 tons each and the rest of the TAC 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 TAC 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:

- 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;
- Encourage the landing and processing of horse mackerel in South Africa.

The Department will recognise two types of horse mackerel directed effort. First, those that target horse mackerel using a 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.

Those right-holders that hold a hake deep-sea trawl right in addition to a horse mackerel right may carry both a deep water and a mid-water trawl net. All hake caught in this instance will be deducted from the right-holder's hake allocation.

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,

the Department intends to allocate commercial rights for a period of 10 years (01 January 2006 to 31 December 2015 subject to a review at regular intervals against predetermined performance criteria, including whether agreed transformation goals have been achieved (*see paragraph 12 below*)).

7. New Entrants

Notwithstanding that the Department considers this fishery to be optimally exploited, the poor transformation profile, coupled with the fact that horse mackerel is harvested and exported

without processing in South Africa, the Department intends allowing in new entrant applicants. New entrant applicants will only be granted rights if they –

- are significantly transformed in respect of both ownership and management;
- are not fronts for other companies;
- have immediate access to a suitable vessel(s) and to the capital required to finance a mid-water trawl operation.

8. Exclusionary criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”, and thereafter weighted in terms of a set of “*comparative balancing criteria*”. A cut-off score will then be determined. A proportion of the TAC will then be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

8.1 Exclusionary criteria

Apart from the criteria described in the General Policy pertaining to the lodgement of the applications and material defects, the Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a horse mackerel fishing right. Right-holder applicants, including the directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of

the Marine Living Resources Act will also not be allocated a horse mackerel fishing right.

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

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

(a) **Transformation**

The Department's objective 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 representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representativity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

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

- Investments in vessels suitable for the harvesting of horse mackerel. In this regard, investment in the form of shareholding will be considered.
- Investments in processing and marketing infrastructure. The Department 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 Department will consider what investments have been made in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate whether they have the knowledge, skill and ability to fish for horse mackerel.

(c) Jobs

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

- Full-time employment;

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

In addition, right-holder applicants will be rewarded in accordance with the number of jobs created per ton of fish allocated. The Department will also have regard to the wage differentials between the highest and lowest paid employees.

(d) Value-adding

The Department may have regard to the ability of applicants to add or intend to add to the maximum value of horse mackerel by processing fish products for local and international markets.

(e) Performance

Right-holder applicants that significantly over and under-caught (more than 10 percent) 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.

(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 with the above by-catch limitations.

(h) Compliance

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

8.3 Quantum criteria

In respect of right-holders, the Department will use as a base the 2005 allocations. To this will be added proportionately the allocations of right-holders that were excluded. A set of quantum scoring criteria will then be developed based on the –

- (a) Level of transformation:** 20 percent of the TAC will be redistributed in accordance with transformation scores achieved by each successful applicant;
- (b) Landing of Horse Mackerel in South Africa:** 20 percent of the TAC will be redistributed to those successful applicants which intend to land horse mackerel in South Africa and develop products for human consumption;
- (c) The unequal distribution of the MPCL between right-holders:** This is a further factor that will be considered. Ten percent of the MPCL will be allocated to applicants with higher than the average balancing score and less than the average quantum allocation.

New entrants will be allocated the same as the lowest allocation made to a successful right-holder applicant.

9. Suitable vessels

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

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

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.

The employment of dedicated mid-water trawl vessels for the purposes of fishing in other sectors will not be permitted except in the case where the right-holder also holds a right in the deep-sea trawl fishery, in which case the vessel may be used to activate both rights.

11. Landing sites

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 *Maximum precautionary catch limit*

The resource will be managed using a maximum precautionary catch limit (MPCL) and gear restrictions. The MPCL 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 MPCL 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 MPCL determination may be modified during the rights period, based on available data and improved assessment procedures.

Part of the MPCL 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 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.

14. Observer programme

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer

coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

15. Permit conditions

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

ANNEXURE F

KONSEP



DEPARTEMENT VAN OMGEWINGSKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

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

**HIERDIE KONSEPBELEID MOET SAAMGELEES WORD MET DIE
KONSEP VAN 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 konsepbeleid vir openbare kommentaar handel oor die toekenning en bestuur van kommersiële visvangregte in die marsbanker ("Horse Mackerel") vissery en word deur die Departement van Omgewingsake en Toerisme: Tak Mariene- en Kusbestuur uitgereik. Die konsepbeleid moet saamgelees word met die Konsep van die Algemene Beleid aangaande die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid"). Belanghebbende en geaffekteerde partye mag skriftelik kommentaar lewer by die Departement teen 4 April 2005. Opmerkings wat na hierdie datum ontvang word sal nie in aanmerking kom nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Posbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieerseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar
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Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die marsbanker vissery uiteen te sit. Min van hierdie oorwegings is nuut. Hulle is in die verlede deur die Departement gebruik by die toekenning van regte. Hierdie beleid weerspieël sodanige oorwegings, maar sluit 'n paar veranderings en toevoegings in.

Sekere voorgenome bestuursbeleidsrigtings in verband met die toekenning van regte verskyn ook in hierdie konsepbeleid. 'n Bestuurshandboek vir die Marsbanker vissery sal met regtehouers in die loop van 2006 gefinaliseer word. Hierdie handboek sal in die fyn besonderhede die toepaslike bestuursmetodes en -prosedures vir die bedryf uitstippel

Die Minister van Omgewingsake en Toerisme is voornemens om artikel 18-magte, om kommersiële visvangregte van die marsbanker vissery toe te ken 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.

2. Biologiese status van die vissery

Die suidelike Afrikaanse sub-spesie marsbanker (*Trachurus trachurus capensis*) kom langs die hele Suid-Afrikaanse kus voor, maar die grootste hoeveelheid volwasse wat geteiken word, is te vinde op die Agulhas-bank, naby die breuk van die kontinentale plat. Jeugdiges kom voor hoofsaaklik langs die weskus, waar hulle deur saknetvisser in die eerste kwartaal van die jaar gevang word.

Die Suid-Afrikaanse voorraad marsbankers is redelik klein, vergeleke met die wêreldstandaard. Die status van die Suid-Afrikaanse voorraad word steeds bepaal. Om hierdie rede word die marsbankerbedryf bestuur in terme van 'n maksimum voorsorg-vangsperk (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 marsbanker hoogs nomadies is. Plaaslike beskikbaarheid wissel en is afhanklik van omgewingstoestande.

3. Profiel van die Vissery

Die marsbankerbron word hoofsaaklik deur die middel-water treilvissery geteiken, maar aansienlike geteikende en toevallige byvangst vind plaas in die bodemtreilvissery wat op stokvis gemik is. Verder word jong marsbankers aan die weskus as byvangs in die saknetvissery gevang. Terwyl die vangs van jeugdiges deur die saknetvissery gewoonlik minimal is, was dit by geleentheid aansienlik en word tans streng beperk tot 5 000 ton per jaar.

Bestuur van die marsbankerbron in Suid-Afrikaanse waters word bemoeilik deur 'n gebrek aan data, veral die gebrek aan tydsgekoppelde bronvlak aanwysers. Die mees betroubare aanduiding van bronvlakke is te vinde in inligting bekom van diepsee-treil oorsigte wat bodemtreiltoerusting gebruik. Hierdie aanduiding onderskat waarskynlik die grootte van die

bron. Die status en produktiwiteit van die bron is dus minder bekend as dié van ander Suid-Afrikaanse bronne soos stokvis, sardien en ansjovis. Die data oor marsbankers is onvoldoende, want die hoofokus van navorsing tot dusver was om inligting in te win oor gevestigde visserye soos stokvis en sardiens.

Die marsbankerbedryf verskaf werk aan ongeveer 50 persone aan boord die een midwater-treilboot. Hiervan is slegs 16 Suid-Afrikaners. Marsbankers 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 vangs is jaarliks ongeveer R55 miljoen werd.

4. Die prosies van medium-termyn regtetoekenning

In 2001 is medium-termyn regte vir geteikende midwater-treilvisserij aan 21 maatskappye toegeken, waarvan vyf nuwe inkomelinge was. Die nuwe inkomelinge is elk 500 ton toegeken en die res van die TTV is onder bestaande regtehouers verdeel. Die toekenning het oorweging gegee aan vorige toekennings en punte behaal in die vergelykende balanseringsbepaling.

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 TTV gehou word deur maatskappye in swart besit.

5. Oorkepelende sektorale doelwitte

Die oorkepelende doelwitte by die toekenning van langtermyn visvangregte is om:

- die transformasieprofiel van die marsbankervissery te verbeter;
- 'n belegging- en werkskeppingsvriendelike omgewing te skep;
- die ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die bedryf te ondersteun;
- die landing en prosessering van marsbankers in Suid-Afrika aan te moedig.

Die Departement sal erkenning gee aan twee tipes marsbanker-gerigte vangspogings. Eerstens, dié wat marsbanker met 'n 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-byvangs sal hier geld.

Regtehouers wat 'n diepsee stokvistreilreg en 'n marsbankerreg het, mag 'n diepwater en 'n midwater treilnet dra. Stokvis wat in hierdie geval gevang word, sal van die regtehouer se stokvistoekenning afgetrek word.

Van regtehouers sal verwag word om te spesifiseer watter opsie hulle van voorneme is om uit te oefen.

6. Tydsduur van regte

Met inagneming van -

- die transformasieprofiel van die visserij;
- die kapitaal-intensiteit van die visserij;
- die noodsaaklikheid om die landing van marsbankers in Suid-Afrika aan te moedig en om meer Suid-Afrikaanse werksgeleenthede in hierdie bedryf te skep;
- die behoefte vir die verhoging van ekonomiese stabiliteit en mededinging in die bedryf; en
- die feit dat die marsbankerbron meer navorsing benodig,

is die Departement voornemens om kommersiële visvangregte vir 'n tydperk van 10 jaar (1 Januarie 2006 to en met 31 Desember 2015) toe te ken, onderworpe aan gereelde hersiening met betrekking tot voorafbepaalde prestasiekriteria soos die bereiking van ooreengekome transformasiedoelwitte (*sien paragraaf 12 hier onder*).

7. Nuwe inkomelinge

Ten spyte daarvan dat die Departement van mening is dat die visserij optimaal ontgin word, is die Departement voornemens om nuwe aansoekers toe te laat vanweë die swak transformasieprofiel, tesame met die feit dat marsbankers geoes en uitgevoer word sonder prosessering in Suid-Afrika. Nuwe aansoekers sal slegs regte ontvang word indien hulle –

- ten opsigte van besit en bestuur wesentlik getransformeer is;
- nie as fronte vir ander maatskappye optree nie;
- onmiddellike toegang het tot geskikte vaartuig/vaartuie en tot die nodige kapitaal om 'n midwater treilbedryf te finansier.

8. Evaluasiekriteria

Aansoeke sal volgens 'n stel "*uitsluitingskriteria*" ondersoek word, en daarna teen mekaar opgeweeg word volgens 'n stel gelaaide "*vergelykende balanseringskriteria*". 'n Afsnypunt sal dan bepaal word. Die TTV sal dan proporsioneel onder die aansoekers volgens 'n stel "*kwantumkriteria*" verdeel word.

8.1 Uitsluitingskriteria

Behalwe die kriteria beskryf in die Algemene Beleid met betrekking tot die onbehoorlike indiening van aansoeke en wesentlike tekortkominge, sal die Departement 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, Wet 69 van 1984 en die Maatskappyyewet, Wet 61 van 1973, sal in aanmerking kom. Aansoeke van natuurlike persone (d w s individue of eenmansake) en trusts sal nie oorweeg word nie.
- (b) **Wetsnakoming:** Visvangregte vir die marsbankerbedryf sal nie toegeken word nie aan regtehouers, insluitende die direkteure of beherende aandeelhouders

wat skuldig bevind is aan 'n misdryf ingevolge die WLMH (sonder die opsie om 'n boete te betaal). Regte sal ook nie toegeken word nie aan regtehouer-aansoekers, insluitende die direkteure of beherende aandeelhouders wie se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH.

Regtehouers, insluitende hulle direkteure of beherende aandeelhouders wat tans vir oortredings (hetsy krimineel of administratief) van die WLMH ondersoek word, sal nie vir 'n visvangreg kwalifiseer voordat die ondersoek afgehandel is nie.

Die Departement verwag dat elke regtehouer 'n heffing betaal op die teikenspesies van visvangste. 'n Aantal regtehouers het of nog nie heffings betaal nie, of nie die hoeveelheid van die vangste korrek aangemeld nie om daardeur onder andere die betaling van heffings te vermy. Laasgenoemde sal uitgesluit word. Eersgenoemde sal gepenaliseer word in die vergelykende balanseringsproses soos hier onder uiteen gesit. Sou sodanige aansoeker egter nietemin vir 'n reg kwalifiseer, sal 'n visvangpermit nie uitgereik word nie alvorens die uitstaande heffings (plus rente) by die Departement betaal is nie.

- (c) **Papierkwota's:** Papierkwota's soos uiteengesit in die Algemene Beleid sal uitgesluit word.
- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal moet bewys dat hulle reg tot toegang tot 'n geskikte vaartuig het (**sien paragraaf 9 hier onder**).

8.2 Vergelykende balanseringskriteria

Aansoekers wat regte hou, asook potensiële nuwe inkomelinge, sal geëvalueer word ingevolge die volgende balanseringskriteria wat gelaai sal word, ten einde die sterkte van elke aansoek te bepaal.

- (a) **Transformasie**

Die Departement se doel met die proses van langtermyn regtetoekenning in hierdie visserij is om op die huidige vlakke van transformasie te verbeter. Soos in die Algemene Visvangbeleid uiteengesit sal aansoekers evalueer word volgens -

- Die persentasie swart persone en vroue wat op eienaarsvlakke en uitvoerende bestuursvlakke verteenwoordig is;
- Of werknemers aandeelhouders van die aansoeker is, en die voordele wat hulle hieruit verkry;
- Regstellende aankope;
- Die aantal swart persone en vroue op die verskillende vlakke benede uitvoerende bestuur;
- Nakoming van die Wet op Diensbillikheid, Wet 55 van 1998; en
- Korporatiewe sosiale belegging.

(b) Belegging in die visserij

In verband met bestaande regtehouer aansoekers, sal die Departement die volgende spesifiek in ag neem:

- Beleggings in vaartuie geskik om marsbankers te oes. Hierby sal beleggings in die vorm van aandeelhouding oorweeg word.
- Beleggings in prosesserings- en bemarkingsinfrastruktuur. Die Departement sal veral diegene beloon wat onderneem om marsbankers in Suid-Afrika te land en te prosesseer.

Die Departement sal in aanmerking neem watter beleggings nuwe aansoekers gemaak het in vaartuie, prosessering- en bemarkingsinfrastruktuur. Verder moet nuwe aansoekers kan bewys dat hulle die kennis, vaardigheid en vermoë het om marsbankers te vang.

(c) Werksgeleenthede

Die Departement sal die aansoekers beloon wat hulle werknemers van die volgende voorsien:

- Voltydse werk;
- Mediese- en pensioenvoordele;
- Enige ander diensvoordele; en
- Veilige werksomstandighede.

Verder word regtehouer aansoekers beloon volgens die aantal werksgeleenthede geskep per ton vis toegeken. Die Departement sal ook die loonverskille tussen die laagste en hoogste besoldigde werkers in ag neem.

(d) Waardetoevoeging

Die Departement sal die vermoë, of voornemens van regtehouers om waarde by tot marsbankers toe te voeg, deur middel van prosessering van visprodukte vir die plaaslike en internasionale market, in aanmerking neem.

(e) Prestasie

Regtehouers wat aansienlik meer of minder as hulle toekennings (meer as 10 persent) gevang het, sal gepeenaliseer word. Finansiële prestasie sal gemeet word soos in die Algemene Beleid aangedui.

(f) Betaling van visvangheffings

Regtehouers sal gepeenaliseer word, indien hulle heffings vir langer as 60 dae nie betaal is nie.

(g) Byvangs

Die impak op dolfyne, diepsee haaie en sonvis, as gevolg van die treilvangs van marsbankers, is kommerwekkend. 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 marsbanker midwater treilbedryf word op net minder as twee persent van die marsbankersvangs bereken. Voorgenome aansoekers sal moet aantoon watter byvangstempering en verminderingsmaatreëls hulle in werking gestel het of – in die geval van nuwe aansoekers – watter metodes hulle sal toepas om te verseker dat hulle aan bogenoemde byvangsbeperkings voldoen.

(h) Wetsnakoming

Aansoekers wat versuim om te voldoen aan hulle verpligtings ingevolge die Wet op Vaardigheidsontwikkeling, 97 van 1998 en die Wet op Heffing van Vaardigheidsontwikkeling, 9 van 1999, en diegene wat geringe oortredings van die WLMH begaan het (d w s oortredings wat nie hulle uitsluiting regverdig nie) sal geenaliseer word.

8.3 Kwantumkriteria

Ten opsigte van regtehouers sal die Departement die 2005-toekenning as basis gebruik, proporsioneel die toekenning van regtehouers wat uitgesluit was byvoeg en dan die volgende stel kwantumkriteria ontwikkel, gebaseer op die volgende:

- (a) Transformasievlak:** 20 persent van die TTV sal herversprei word ooreenkomstig punte vir transformasie deur elke suksesvolle aansoeker behaal;
- (b) Landing van marsbankers in Suid-Afrika:** 20 persent van die TTV sal herversprei word aansuksesvolle aansoekers wat voornemens is om marsbankers in Suid-Afrika te land en produkte vir menslike gebruik te ontwikkel;
- (c) Die oneweredige verdeling van die MVVP onder regtehouers:** Hierdie faktor sal ook in ag geneem word. Tien persent van die MVVP sal aan aansoekers

toegeken word met bo-gemiddelde balanseringspunte en onder-gemiddelde kwantumtoekenning.

Nuwe aansoekers sal dieselfde toekenning ontvang as die laagste toekenning aan suksesvolle bestaande regtehouers.

9. Geskikte vaartuie

'n Geskikte vaartuig vir marsbankervissery is 'n vaartuig wat -

- Toegerus is vir midwater treilvisserie;
- 'n Geskikte diepsee-stokvis treilvaartuig is en 'n midwater treilnet kan dra;
- SAMVV-gecertifiseerd is; en
- Toegerus is met 'n funksionerende vaartuigmoniteringstelsel.

10. Multi-sektorale betrokkenheid

Regtehouers in die marsbanker vissery word nie daarvan uitgesluit om regte in die Groepe A- en B visserye te hou nie. Regtehouers in die marsbankervissery (insluitende hulle behorende aandeelhouers en lede van hulle uitvoerende bestuursspan) sal nie toegelaat word om kommersiële visvangregte in die Groepe C- en D visserye te hou nie.

Midwater treilvaartuie sal nie toegelaat word om in ander visserye werksaam te wees nie, behalwe in die geval waar die regtehouer ook 'n reg in die diepsee treilvisserie hou. Dan mag die vaartuig beide regte uitoefen.

11. Landingplekke

Vangste mag slegs geland word by die Suid-Afrikaanse hawens van Saldanha, Kaapstad, Houtbaai, Mosselbaai en Port Elizabeth.

12. Bestuursmaatreëls

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

12.1 Ekosisteem-benadering tot bestuur van visserij

Hierdie visserij sal bestuur word ooreenkomstig die ekosisteembenadering tot die visserij (EBV). 'n Ekosisteembenadering tot die bestuur van die visserij is 'n holistiese en geïntegreerde beleid wat erkenning gee daaraan dat visvang en verwante aktiwiteite op land die breë mariene omgewing kan beïnvloed. Hierdie deel van die beleid vir die marsbankerbedryf is egter nie daarop gerig om 'n beleidsverklaring te maak oor EBV in die marsbankerbedryf nie. Die EBV in die marsbankerbedryf sal verder uiteengesit word in die Bestuurshandleiding vir die Marsbankerbedryf. Suid-Afrika bly verbind tot 'n teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserij

12.2 Konsolidasie van deelnemers

Na die toekenning van kommersiële visvangregte vir 10 jaar in hierdie bedryf sal die Departement die konsolidasie van aktiewe regtehouers in die bedryf fasiliteer, veral waar:

- Regtehouers dieselfde aandeelhouers, kantoor of bestuurspan het; en
- Kleiner regtehouers hulle sakebedrywighede wil konsolideer.

12.3 Maksimum voorsorg-vangspers

Die bron sal bestuur word met 'n maksimum voorsorgvangperk (MVVP) en toerustingbeperkings. Die MVVP sal jaarliks bepaal word en word hoofsaaklik gebaseer op 'n ouderdoms-gestruktureerde surplusproduksiemodel met die gebruik van vangdata en biomassa-beramings. 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 om jaarliks die MVVP te bereken, mag gedurende die regtetydperk op grond van beskikbare data en verbeterde bepalingprosedures gewysig word.

'n Deel van die MVVP sal toegeken word aan regtehouers van die marsbanker geteikende visserye wat bodem- en midwater-treiltoerusting gebruik en 'n deel sal gereserveer word om byvangst in die diepsee stokvisteiken vissery te dek. Verder mag die saknet-vloot wat vir pelagiese vis, nie meer as 5 000 ton marsbankers vang nie.

13. Meet van prestasie

Die Departement sal 'n aantal formele ondersoeke instel om prestasie in die gebruik van regte te meet oor die tydskuur van die regte. Daar word beoog om die eerste prestasiebepalings na twee jaar uit te voer en daarna na elke drie jaar.

Hoewel die Departement die presiese kriteria waarteen regtehouers gemeet sal word na die toekenning van kommersiële visvangregte en na oorlegpleging met regtehouers sal finaliseer, kan die volgende breë prestasie-verwante kriteria gebruik word.

- transformasie;
- belegging in vaartuie, fabrieke en toerusting;
- volhoubare gebruik en veral byvangstetemperering en die biologiese en ekologiese gevolge van treilvisvang;
- nakoming van toepaslike wette en regulasies.

14. Waarnemersprogram

Die Departement se huidige waarnemerprogram sal uitgebrei word om waarneming vir wetstoepassingsdoeleindes in te sluit. Verder sal die Departement die waarneming van hierdie visserij stelselmatig uitbrei. Daar sal van regtehouers verwag word om die koste van die waarnemingsprogram te dra.

15. Permitvoorwaardes

Permitvoorwaardes vir hierdie visserij sal jaarliks uitgereik word. Die permitvoorwaardes op hierdie visserij vir die 2005-seisoen word as **Bylae A** aangeheg. Belanghebbende en geaffekteerde partye word uitgenooi om oor hierdie permitvoorwaardes kommentaar te lewer.

ANNEXURE G

DRAFT



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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF COMMERCIAL
FISHING RIGHTS IN THE KWAZULU-NATAL PRAWN TRAWL FISHERY: 2005**

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

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1. Introduction

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

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

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

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

The Minister of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate commercial KZN prawn trawl fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 ("*the MLRA*") to a senior official of the Department.

2. Biology and resource dynamics

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

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

3. Sector profile

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

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

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

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

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

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

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

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

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

4. The Medium-term rights allocation process

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

The Department's allocation records show that:

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

5. Over-all sectoral objectives

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

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

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

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

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

6. Duration of rights

Having regard to –

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

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

7. New entrants

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

8. Evaluation criteria

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

8.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a KZN prawn trawl fishing right. Right-holder applicants, including the directors or controlling

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

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

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

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

8.2 Comparative balancing criteria

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

(a) Transformation:

As stipulated in the General Fisheries Policy, applicants will be assessed and scored on –

- The percentage black and women representation at ownership and executive management levels;

- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representivity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

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

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

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

(c) Jobs

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

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

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

(d) Performance

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

(e) Payment of fish levies

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

(f) Compliance

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

(g) By-catch

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

8.3 Quantum allocation

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

9. Suitable vessels

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

10. Multi-sector involvement

Right-holders in the KZN prawn trawl fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the KZN prawn trawl fishery (including their controlling shareholders and members of their executive management team) will not be allowed to hold commercial fishing rights in the Cluster C and Cluster D fisheries.

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

11. Landing sites

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

12. Application fees and levies

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

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals review applications. In this regard the costs incurred during the medium-term process will be used as a guide; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with affected and interested parties.

13. Management measures

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

13.1 Ecosystem approach to fisheries management

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

13.2 By-catch

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

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

13.3 Vessels

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

13.4 Nationality of catch

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

13.5 Precautionary principle and sustainability

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

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

14. Performance measuring

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

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

- transformation;
- investment in vessels and gear;
- sustainable utilisation, and in particular the ecological impacts of trawl fishing;
- compliance with applicable laws and regulations.

15. Observer programme

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

16. Permit conditions

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

ANNEXURE H

KONSEP



DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

BELEID VIR DIE TOEKENNING EN BESTUUR VAN KOMMERSIËLE

VISVANGREGTE IN DIE KWAZULU-NATAL GARNAAL

TREILVANGSVISSERY: 2005

HIERDIE KONSEPBELEID MOET SAAM GELEES WORD MET DIE
KONSEP VAN 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

Dié 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 Departement van Omgewingsake en Toerisme: Tak Mariene- en Kusbestuur ("die Departement") vir openbare kommentaar. Hierdie konsepbeleid moet saamgelees word met die Konsep van die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid"). Belanghebbende en geaffekteerde partye mag skriftelik kommentaar lewer by die Departement teen 4 April 2005. Kommentaar wat na hierdie datum ingelewer word sal nie in aanmerking kom nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks: Nommer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Posbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar
		Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieeringsseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar

Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die KZN garnaaltreilvisserij uiteen te sit. Min van hierdie oorwegings is nuut. Hulle is in die verlede toegepas deur die Departement. Hierdie beleid weerspieël sodanige oorwegings, maar sluit ook 'n paar veranderinge en byvoegings in.

Sekere voorgenome bestuursbeleidrigtings in verband met die toekenning van regte verskyn ook in hierdie konsepbeleid. 'n Bestuurshandleiding vir die KZN garnaal treilvisserij sal in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die bestuursmetodologie en prosedures uiteensit vir die bedryf.

Die Minister van Omgewingsake en Toerisme is van voorneme om die 'artikel 18 magte' om kommersiële KZN garnaal treilvisserijregte te deleger, in terme van artikel 79 van die Wet op

Marienelewe en Hulpbronne ("die WLMH"), aan 'n senior beampte van die Departement te delegeer.

2. Biologie en hulpbrondinamika

Wit garnale (*Penaeus indicus*), bruin garnale (*Metapenaeus monoceros*) en tiergarnale (*Penaeus monodon*) word op die bodem van die vlak modderbanke langs die noordelike-ooskus gevind. Bamboe garnale (*Penaeus japonicus*) word ook per geleentheid op die St Lucia-gronde gevind. Hierdie garnale groei vinnig en het 'n lewensduur van ongeveer een jaar. Eiers word op die abdomen van die vroulike garnale gedra. Larwes broei gedurende die tweede helfte van die jaar uit, en word deur die seestrome na die estuaria langs die KZN-kus binnegedra, waar hulle bly tot die eerste kwartier van die volgende jaar en groei tot jongelinge. Jong garnale beweeg uit die estuaria tot op die modderbanke, waar hulle tot volwassenheid groei, voortplant en sodoende hul lewensiklus voltooi.

Diepsee spesies sluit in die pienk (mes-) en rooi garnale (*Haliporoides triarthrus*) en *Aristaeomorpha foliacea*, langoustines (*Metanephrops mozambicus*) en (*Nephropsis stewartii*), rooikrap (*Chaceon macphersoni*), en diepsee kreef (*Palinurus delagoae*). Die lewensiklusse van hierdie spesies is uiteenlopend, maar sommige (soos seekreef) groei stadig en leef lank, en maak hulle dus kwesbaar. Daar is nie veel bekend omtrent die biologie van langoustines en diepsee garnale nie.

3. Sektorale profiel

Die KZN garnaal treilvisserij is gebaseer in Kwazulu-Natal (KZN) en bestaan uit twee komponente: 'n aanlandige visserij (5 tot 40m diep) op die Tugela-oewer en by St Lucia in 'n gebied wat ongeveer 400 vierkante kilometer beslaan; en 'n afluandige visserij (100 to 600m diep) wat van Cape Vidal in die noorde tot Amanzimtoti in die suide strek en 'n gebied van ongeveer 1 000 vierkante kilometer langs die rand van die vastelandsplat beslaan.

Tot die 1960's was treilvisvangery sporadies, maar daarna het die sektor ontwikkel tot soveel as 12 maatskappye en 21 vaartuie, waarvan talle ook in Mozambiek visvang. Gereelde statistiek is sedert 1988 ingesamel.

Vangste en vangskoerse van individuele spesies wissel geweldig, soms as gevolg van visvangstrategie (die teiken van bepaalde spesies) eerder as wisselings in die beskikbaarheid van 'n spesie. Die beskikbaarheid van vlakwater garnale hang af van reënvalpatrone en die uitwerking daarvan op die deurspoeling van die estuaria waar larwes en jong garnale ontwikkel. In die algemeen was daar in die afgelope twee dekades 'n afname in die vangs van wit garnale, pienk garnale, langoustines, kreef and rooikrap.

Die vissery word bestuur deur gebruik te maak van 'n strategie van Totale Ontplooid Vangspoging ("TOV") wat die aantal vaartuie beperk wat toegelaat word om in die aanlandige en afluandige gebiede vis te vang. 'n TOV van agt visvangpermitte is oor die afgelope dekade gehandhaaf.

Die sektor is kapitaal-intensief en die infrastruktuur, bemaking en produkverspreiding word gedomineer deur gevestigde maatskappye. Die vissery verg gespesialiseerde vaartuie 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 groot staal treilers van 24 tot 40 meter in lengte, met 500 – 1 000 perdekrags enjins. Treilernetgroottes wissel tussen 25 tot 60 meter voettouelengtes, met 'n gestrekte oog wat afdun van 70 millimeters in die vlerk tot 38 millimeters in die sak-end. Treilvissery vind plaas op 'n 24-uur-basis, teen 'n spoed van tussen twee tot drie knope en 'n gemiddelde drag/sleepduur van vier uur. Treilers word beman met ongeveer 15 bemanningslede en bly ter see vir twee tot drie weke op 'n slag.

Vangste (gemeet aan gewig) 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, pylinkvis en inkvis), weekdiere, en wesentlike hoeveelhede van verskeie ander visspesies. Die verwerpte byvangste (jong of klein vis, lae-waarde skaaldiere, elasmotakke en weekdiere) beloop ongeveer 1 000 tot 2 000 ton per annum.

Aanlandige treilvisserij is seisoengebonde, met goeie vangste tussen Januarie en Maart langs St Lucia, en van Maart tot September op die Tugela-oewer. Aflandige treilvisserij vind regdeur die jaar plaas. Die grens tussen die aan- en aflandige visserij is sewe see-myl vanaf die kus, tussen die St Lucia vuurtoring en Zinkwazi.

Vangste word ter see volgens grootte gesorteer, gegraadeer, verpak en lugsak 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 ontskepte vangste in die KZN garnaal visserij beloop omtrent R21 miljoen per jaar.

4. Medium-termyn regtetoekenning

Visvangregte is in 2001 vir 'n medium-termyn tydperk van vier jaar toegeken. Regte word deur vyf visvangmaatskappye (met 'n totaal van agt vaartuie), waarvan drie (met vyf vaartuie) geregtig is om beide in die aanlandige sowel as die aflandige visserij vis te vang, en die ander twee regtehouers (met drie vaartuie) tot aflandige visserij beperk word.

Die Departement se toekenningsrekords toon dat:

- 'n beraamde 22 persent van die deelnemers deur 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 van die toekenning van langtermynvisvangregte in hierdie visserij is om:

- die transformasieprofiel van die KZN garnaalvisserij wesenlik te verbeter;

- 'n belegging- en werkskeppingsvriendelike omgewing te skep;
- die ekonomiese lewensvatbaarheid en ekonomiese volhoubaarheid van die visserij te ondersteun;
- die omgewingsvolhoubaarheid van die visserij te ondersteun;
- die omgewingsvolhoubaarheid van die visserij te verseker;
- te verseker dat stappe geneem word om vermybare byvangs te verminder, veral vangste van lynvisspesies wat gelys is as verbode en ontspanning spesies; en
- te verseker dat, waar moontlik, byvangste aan land gebring word, sodat hulpbronne nie vermors word nie.

Transformasie sal 'n belangrike oorweging wees by die toekenning van langtermyn-visvangregte. Nog 'n doelwit sal wees om te verseker dat die profiel van die visserij die demografiese profiel van die land meer breedvoerig weerspieël. Alhoewel dit waarskynlik is dat die huidige aantal vaartuie in die visserij (agt) behou sal word, sal die noodsaaklikheid van transformasie beteken dat die regte nie noodwendig aan bestaande regtehouers toegeken word nie. Nuwe inkomelinge wat transformeer het, mag bo bestaande deelnemers verkies word.

Die hoeveelheid byvangste en die uitwerking wat garnaal treilvisserij op die bentiese habitat het, bly 'n bron van groot kommer en die Departement sal aansoekers in die visserij beloon wat kan aantoon watter maatreëls hulle in werking kan stel om byvangste te vermy. 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 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;

beoog die Departement om kommersiële visvangregte toe te ken vir 'n tydperk van agt jaar (1 Januarie 2006 to 31 Desember 2013), onderhewig aan 'n oorsig op gereelde tussenposes teen vasgestelde prestasiekriteria, met inbegrip van die bereiking van transformasiedoelwitte (*sien paragraaf 14 hier onder*).

7. Nuwe inkomelinge

Nuwe inkomelinge sal oorweeg word en mag bo bestaande regtehouers verkies word, veral indien hulle insluiting transformasie van die KZN garnaal visserij sal aanhelp.

8. Evalueringskriteria

Aansoeke sal gesif word aan die hand van 'n stel "*uitsluitingskriteria*". Aansoeke van nuwe deelnemers en bestaande regtehouers sal daarna afsonderlik oorweeg word in terme van 'n stel gelaai "vergelykende balanseringskriteria". 'n Afsnypunt in terme van punte toekenning sal dan bepaal wie die suksesvolle aansoekers is.

8.1 Uitsluitingskriteria

Aanvullend tot die uitsluitingskriteria wat genoem word in die Algemene Beleid op Visserij met betrekking tot onbehoorlike indiening en wesentlike tekortkominge, sal die Departement aansoeke uitsluit wat nie aan die volgende vereistes voldoen nie:

- (a) **Vorm van die aansoeker:** Aansoeke sal slegs oorweeg word van entiteite wat ingelyf is in terme van die Wet op Beslote Korporasies, 69 van 1984 en die Maatskappijwet, 61 van 1973. Aansoeke van natuurlike persone (d.w.s. individue of eenmansake) en trusts sal nie oorweeg word nie. Regtehouers wat bestaan in die vorm van trusts sal hulle self moet inlyf as 'n maatskappij of 'n beslote korporasie.

- (b) **Wetsnakoming:** Aansoekers sal nie kwalifiseer vir die toekenning van KZN garnaal regte, insluitende direkteure of beherende aandeelhouders, wat skuldig bevind is aan 'n oortreding in terme van die WLMH (en gevonnissen tot tronkstraf sonder die opsie van 'n boete). Aansoekers, insluitende die direkteure of beherende aandeelhouders, wie se visvangregte al gekanselleer of herroep was in terme van die WLMH, sal ook nie KZN garnaal regte oesregte ontvang nie. Ander nie-nakomings van die WLMH sal 'n nadelige invloed hê op die oorweging van die aansoek, soos hieronder uiteengesit sal word.

Die Departement verwag dat elke regtehouer 'n heffing betaal op die teikenspesies van visvangste. 'n Aantal regtehouers het óf nog nie heffings betaal nie óf nie die hoeveelheid van die vangste korrek gerapporteer nie, om daardeur onder andere die betaling van die heffings te vermy. Laasgenoemde sal uitgesluit word. Eersgenoemde 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 heffings (plus rente) by die Departement betaal is nie.

- (c) **Papierkwota's:** Papierkwota's 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 beding het (*sien verder paragraaf 9 hier onder*).

8.2 Vergelykende balanseringskriteria

Aansoekers wat regte hou, asook potensiële nuwe inkomelinge, sal geëvalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal.

- (a) **Transformasie:**

Soos deur die Algemene Visvangbedryfbeleid vasgestel, sal die aansoekers geëvalueer word volgens –

- Die persentasie swart persone en vroue wat op eienaarsvlakke en uitvoerende bestuursvlakke betrokke is;
- Of werknemers aandeelhouders van die aansoeker is en die voordele wat hulle hieruit kry;
- Regstellende aankope;
- Die aantal swart persone en vroue op die verskillende vlakke onder die uitvoerende bestuursvlak;
- Nakoming aan die Wet op Diensbillikheid, Wet 55 van 1988; en
- Korporatiewe sosiale belegging.

(b) Belegging in die visserij

Met betrekking tot aansoekers wat reeds regte het, sal die Departement die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie vir die oes van KZN garnale. In hierdie verband sal beleggings in die vorm van aandeelhouding in aanmerking geneem word;
- Beleggings in prosesserings- en bemarkingsinfrastruktuur.

Betreffende nuwe aansoekers, sal die Departement oorweging gee aan beleggings gemaak in die vorm van vaartuie, prosesserings- en bemarkingsinfrastruktuur. Verder sal nuwe aansoekers moet aantoon dat hulle die kennis, vaardigheid en vermoë het om aan die KZN garnaal treilvisserij te kan deelneem.

(c) Werksgeleenthede

Die Departement sal daardie aansoekers beloon wat werknemers voorsien van die volgende –

- Voltydse indiensneming;
- Mediese- en pensioenvoordele;
- Enige ander diensvoordele; en
- Veilige werksomstandighede.

Die Departement sal ook die loonverskille tussen die hoogste en laagste besoldigde werknemers in aanmerking neem.

(d) Prestasie

Finansiële prestasie sal gemeet word soos in die Algemene Visvangbedryfbeleid aangedui. Verder, sal die Departement die aansoeker se visvangprestasie in ag neem, veral met betrekking tot die aantal dae wat in Suid-Afrikaanse gebiedswaters visgevang word teenoor die hoeveelheid dae wat daar in Tanzanië of Mosambiek visgevang word.

(e) Betaling van visvangheffings

Regtehouers sal gepeenaliseer word as hul heffings vir 'n tydperk van langer as 60 dae agterstallig is.

(f) Wetsnakoming

Aanzoekers wat versuim om te voldoen aan hulle verpligtings ingevolge die Wet op Vaardigheidsontwikkeling, 97 van 1998 en die Wet op Heffing van Vaardigheidsontwikkeling, 9 van 1999, en diegene wat geringe oortredings van die WLMH begaan het (d.w.s. oortredings wat nie hulle uitsluiting regverdig nie) sal gepeenaliseer word.

(g) Byvangste

Die Departement sal daarna streef om regtehouers aansoekers te beloon wat belê het in en maatreëls inwerkinggestel het om die hoeveelheid byvangste te verminder. Die Departement sal ook positiewe punte toeken aan aansoekers wat markte gevind het vir byvangstespesies (behalwe lynvisspesies wat vir ontspanning of as verbode gelys is).

8.3 Kwantumkriteria

Die TOV is verdeel tussen bedieningsgebiede vir aanlandig- en aflandige visserygebiede. Aansoekers sal toegelaat word om vir beide aanlandige en aflandigevisvangregte op dieselfde vaartuig of op twee verskillende vaartuie aansoek te doen. Daar moet gelet word dat aflandige vaartuie nie toegelaat sal word om aanlandig vis te vang nie. Aanlandige vaartuie word toegelaat om aflandige vis te vang.

9. Geskikte vaartuie

Die KZN garnaal treilvisserij is 'n gespesialiseerde vissery en aansoekers moet toegang het tot groot seevaardige 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 moet 'n maksimum voettoulengte van 60 meter met 'n gestrekte maas wat afdun van 70 millimeters in die vlerk tot 50 millimeter in die sak-end. Vaartuie moet toegerus wees met werkende vaartuigmoniteringstelsels.

10. Multi-sektorale betrokkenheid

Regtehouers in die KZN-garnaal-treilvisserij word nie daarvan uitgesluit om regte in enige ander vissery in die Groep A- en Groep B-visserye te hou nie. Regtehouers in die KZN garnaal treilvisserij (asook hul beherende aandeelhouers en van hul uitvoerende bestuursplan) sal nie toegelaat word om kommersiële visvangregte in die Groep C- en Groep D-visserye te hou nie. Vaartuie wat in die KZN garnaal treilvisserij gebruik word, mag nie in ander sektore gebruik word nie.

11. Landingsplekke

Die Suid-Afrikaanse hawens van Durban en/of Richardsbaai moet gebruik word om vangste te ontskeep. Geen ander hawens mag gebruik word nie.

12. Aansoekgelde en heffings

Mariene hulpbronne is hernieubare hulpbronne en die gebruiker-betaal beginsel sal toegepas word. Aansoekfooie vir die KZN garnaal treilvisserij sal vasgestel word met inagneming van die volgende :

- Die koste van die hele regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings. In hierdie verband sal die koste aangegaan gedurende die mediumtermyn-proses as riglyn dien; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat betaalbaar is vanaf 1 Januarie 2006, sal na oorlegpleging met die geaffekteerde en belanghebbende partye hersien word.

13. Bestuursmaatreëls

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

13.1 Ekosisteenbenadering tot bestuur van vissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteenbenadering tot visserye (EBV). 'n Ekosisteenbenadering tot die vissery is 'n holistiese en geïntegreerde beleid wat erkenning gee daaraan dat visvang en verwante aktiwiteite die breë mariene omgewing kan beïnvloed. Hierdie deel van die beleid vir die KZN garnaal treilvisserij

probeer nie om 'n beleidsverklaring oor EBV in die KZN garnaal treilvisserij te voorsien nie. Die EBV in die KZN garnaal treilvisserij sal verder breedvoerig in die handboek vir Algemene Visvangbestuur vir die KZN garnaal treilvisserij uiteengesit word. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserij.

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 visserij. Alle byvangstespesies wat behou word (waarmee nie weggedoen word nie) 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 ingestel word.

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 slegs 50 tot 60 persent van die beskikbare poging 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 ontskeep word, maar dit moet vergesel word van dokumentasie wat die volgende verklaar: die oorsprong, die koördinate van die posisies waar vis gevang is, die visvangpoging wat tydens die vangs gebruik is en die hoeveelhede wat aan wal gebring is.

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 visvangbedrywe en geen betroubare voorraadmeting van die teikenspesies is nog uitgevoer nie. Die KZN treilvisvanggebiede is klein en sal waarskynlik nie uitbrei nie. 'n Voorsigtige benadering tot die bestuur van visvangpoging in die vissery sal gevolg word totdat bevredigende meting van die bron en die ekologiese uitwerking van visvang onderneem is.

Die Departement erken dat die wisseling 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 formele prestasiemeting onderneem vir die volle tydperk van die kommersiële regte. Dit word voorsien dat die eerste stel metings sal plaasvind binne twee jaar na die toekenning van die regte en daarna elke drie jaar.

Alhoewel die Departement eers die presiese maatstawwe vir die meting van prestasie met regtehouers sal finaliseer na oorlegpleging met regtehouers, mag die volgende breë prestasieverwante maatstawwe gebruik word:

- transformasie;
- nakoming van die toepaslike wette en regulasies.
- volhoubare benutting, en in besonder, die ekologiese uitwerking van treilvisserie;
- belegging in vaartuie en toerusting;

15. Waarnemersprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om ook wetsnakoming in te sluit. Verder sal die Departement ook die waarnemers- en moniteringsdekking in hierdie bedryf toenemend vermeerder. Daar sal van regtehouers verwag word om die koste van die waarnemers- en moniteringsprogram te dek.

16. Permitvoorwaardes

Permit voorwaardes vir hierdie bedryf sal jaarliks uitgereik word. Die permit voorwaardes wat van toepassing is op die bedryf vir die 2005 seisoen word aangeheg as **Bylae A**. Belanghebbendes en geaffekteerde partye word genooi om kommentaar te lewer op hierdie permit voorwaardes.

ANNEXURE I

ISIPHAKAMISO



UMNYANGO WEZEMVELO KANYE NOKUVAKASHA

UKUPHATHWA KOGU LOLWANDLE

INDLELA YOKUNIKWA KANYE NOKUPHATHWAI KWAMALUNGELO

ESIKHATHI ESIDE ENTENGISO NGOKUDOBA

IPATAGONIAN TOOTHFISH : 2005

LOMTHETHO-SIVIVINYO MAWUFUNDWE KANYE NOMTHETHO
JIKELELE WABANTU BONKENGOKUNIKWA NOKUPHATHWA
KWAMALUNGELO ESIKHATHI ESIDE ENTENGISO
NGOKUDOBA:2005 (iyatholakala ku- www.mcm-deat.gov.za)

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1. Isingeniso

Lomthetho-sivinyo mayelana nokunikwa kwamalungelo entengiso ngokudoba iPatagonian toothfish (*Dissostichus eleginoides*) futhi ikhishwe uMnyango weZemvelo noKuvakasha: Ukuphathwa koMnyango Wogu Nolwandle ("uMnyango") yenzelwe imibono yabantu. Abantu abathandayo nabathintekayo bayolulekwa ukuthi bafunde lesisiphakamiso kanye nomthetho-sivinyo wabantu bonke omayelana Nokwabiwa kanye Nokuphathwa Kwamalungelo esikhathi eside entengiso yodoba: 2005 ("Umthetho Jikelele Wentengiso Yokudoba"). Abantu abafunayo nabathintekayo mabafake imibono yabo ebhaliwe ungakadluli umhlaka 4 ku April 2005. Imibono ezofika emva kwalolusuku iyoshaywa indiva. Imibono izakungeniswa ngalezizindlela ezilandelayo:

NgeFax: Quaphela: (021) 670-1782 Quaphela: The Deputy Director-General Fishery (Please specify which fishery) Policy Comments	Nge Mail: Quaphela: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O. Box 44963 Claremont 7735 Fishery (Please specify which fishery) Policy Comments	Nge E-mail: RVU@deloitte.co.za Quaphela: The Deputy Director-General Fishery (please specify which fishery) Policy Comments Nge Hand Quaphela: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Fishery (please specify which fishery) Policy Comments
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Inhloso yaloluhlelo ukwazisa imiqondo ezokusetshenziswa ekunikezweni kwamalungelo esikhathi eside entenhiso ngokudoba iPatagonian toothfish. Imibono eminingi ayjikanga. Beyike yasetshenziswa nguMnyango ekunikeni amalungelo esikhathini esidlulile. Lesi siphakamiso sinayo lemibono, kodwa ihlanganiswe nezongezo ezimbalwa.

Izinhlelo ezithile zokunikwa kwamalungelo esikhathi esidlulile nazo zichaziwe kulomthetho-sivinyo. Umqulu Wokuphatha Wentengiso ngokudoba iPatagonian toothfish uzakuqedelwa kanye nabo bonke abanini-malungelo ngonyaka ka 2006. LoMqulu uzobonisa ngokucacisiwe uhlelo lolwazi lokuphathwa nendlela yentengiso ngokudoba.

Ungqongqoshe woMnyango weZemvelo noKuvakasha uzimisele ukuqinisa izintambo zoHlelo loMthetho 18 wokunikeza amalungelo entengiso ngokudoba iPatagonian toothfish njengoba

kumisiwe ohlelweni 79 loMthetho wezinto zeNgcebo yeZemvelo ephila olwandle 18 ka 1988 ("iMLRA") lomphathiswa ophezulu kuMnyango.

2. Ulwazi olujulile ngemvelo nangengecebo yokwenziwa yimvelo

iPatagonian toothfish, eyaziwa njenge Chilean sea bass, luhlobo lwenhlanzi oluhlala ekujuleni kwamanzi olutholakala engxenyeni ye-antarctic ekujuleni obubalelwa kumamitha angu 3 000. Ngamaqembu aazwe anokufaka izicelo zobunikazi be Patagonian toothfish etholakala ezindaweni ezithile ezikhethekile ezibizwa ngokuthi yizindawo ezikhethekile zomnotho "exclusive economic zones" (EZ Zs) ezise Chile, eArgentina kanye namanye amazwe ongamele iziqhingi zolwandle olukhulu oluseningizimu.

I-EEZ yase Ningizimu Africa ezungeze iziqhingi zase Prince Edward yiyona ndawo yokudoba iPatagonian toothfish esezingeni eliphakeme kakhulu. Izinhlobo eziningi ze Patagonian toothfish zitholakala ekujuleni okukhulu kolwandle.

I Patagonian toothfish iphila ize ifike emashumini amahlanu (50) eminyaka ubude bayo buba ngaphezulu kwamamitha amibili. Ukukhula kwayo okufanele ibanjwe buseminyakeni eyisithupha kuya kweyisishiyagalolunye ubudala, ubude bayo buba phakathi kwamamitha anga 70 nama 95 amasentimitha. Amaqanda azalelwa kumendlalo omkhulu ebusika, kodwa amaqanda wona achanyuselwa kuphela entwasahlobo.

3. Incazelo emfishane ngaloluhlelo

Ukubanjwa emhlabeni wonke jikelele kwePatagonian toothfish kuye kwehla ngamandla seloku kwaqala intengiso yokudoba ekupheleni kweminyaka yawo 1980. Inhlanguanisela yenzuzo ephezulu, ukuphuza ukukhula ngokuphelele kanye nokuba solwandle olujulile kuye kwabangela ukucishe kuphele konke ukuthengiswa ngokudoba, nokungabibikho emthethweni nangokungaphethwe futhi okungaziswanga obekungakaze kwaba khona ekudobeni (IUU). Amanzi aseNingizimu neAfrica ejikeleze isiqhingi i-Prince Edward kwaye kwabhekwa kuwo ngqo futhi u-

CCAMLR wangathekisa ukuthi zicishe zibe ngu 32 000 ithani ze toothfish, ezibalelwa enanini lika uS\$100 wezigidi yayidotshwa ngokungekho emthethweni ukusuka e PEI-EEZ phakathi kuka 1996 kanye no 1998. Izi-patagonian toothfish zibanjwa ngenethi elikhulu kanye nangodweba olunentambo ende. Lendlela yesibili inobungozi obunamandla ezinyonini zasolwandle, ikakhulukazi inyonikazi i-albatrosi kanye ne-phetreli.

Ukudotshwa kwePatagonian toothfish kwaye kwavunyelwa ngokusemthethweni yiNingizimu Africa ukususela ngo1996. Kwalandela ukwaziswa komthetho iMarine Living Resources Act ngo 1998, kwenziwa ngokusemthethweni ukulinga intengiso yokudoba ngaphansi kohlelo 83.

Ngonyaka ka-1996, uMnyango weZemvelo neZokuvakasha wakhipha izimvume ezinhlanu zokulinga ukudotshwa kwePatagonian toothfish (ngaphansi kwe Sea Fisheries Act ka 1988) ngaphakathi kwe EEZ of the Prince Edward Island ("IPI-EEZ"). Ukusukela ngaleso sikhathi, uNgqongqoshe weZemvelo neZokuvakasha umise isivumelwano-mthetho sezinhlanzi ezingabanjwa ("TAC") kulentengiso yezinhlanzi. ITAC yesikhathi sokudoba sonyaka ka 1996/1997yamisa ukulotshwa kwezinhlanzi ezingamathani angu 2 500. Kodwa-ke u TAC uye wehla kancane kancane ekulingeni ukudotshwa kwetoothfi laze ku 500 wamathani ngesikhathi sokudoba sonyaka ka 2003/2004.

Iziqhingi zasePrince Edward zime endaweni ephethwe ngumthetho we Commission for the Conservation of Antarctic Marine Living Resources ("CCAMLR") Convention Areas. Iningizimu Afrika yiyona eyaba yilungu lokuqala elasungula i CCAMLR,okuyiyona eyongamele ukuphathwa izinhlangano ezinikezwe umsebenzi wokulawula nokwaba amalungelo okudoba iPatagonian toothfish emanzini aseAntartic. Ipatagonian toothfish iye yaqondwa ngqo ngabadobi abangekho emthethweni njengoba itoothfish kuyiyona ithandwayo elandela inhlanzi emhlophe eNdiya naseMelika eseNyakatho. Ipatagonian toothfish iyinhlanzi emhlophe yodidi oluphezulu eletha inzuzo enkulu ebalelwa ku US\$7 000 ngethoni elilodwa. Yiyo lenzuzo enkulu etholakalayo esilethe ukudotshwa okungekho mthethweni, okungaphethwe futhi okungabikwayo ("IUU") kulentengiso yokudoba.

Ukudoba okungekho emthethweni kwi PEI-EEZ sekuze kwabekwa ngaphansi komthetho.

Lentengiso ngokudoba isalokhukuyiyona eqhubekayo njengoko iphethwe ngobuciko ngabahlanganyeli abavunyelwe yi Guideline esekwe ngabakwa CCAMLR. Umnyango uye wacabanga ukwaba amalungelo entengiso esikhathe eside kulokhu kudoba.

Lokhu kuthengisa ngokudoba kuyingozi enkulu, ludinga imali eningi leyonto eyenza abanini-malungelo bavalele izimali ezinkulu ngemikhumbi igiya, nasekufuneni ulwazi kanye nentengiso. Izizimali zokuqalisa zifuna inkunzi ebekiwe ebalelwa eziigidini zamarandi kanye nemali yalomsebenzi uwonke inkulu kakhulu

4. Ukunikwa kwezimvume okusalingwa

Amalungelo enzuzo ngokudoba awakaze anikezelwe kulokhu kuthengisa. Ngonyaka ka 1996, amalungelo okudoba wokulinga amahlanu akhishwa ukuze kudotshwe iPatagonian toothfish. Ngenxa yokuqhubeka kokwehla kwi TAC, abanini-malungelo abahlanu abalingwayo bahlanganisela ukuhlawula futhi bazama ukwehlisa isibalo semikhumbi esendaweni yokudoba ukusukela kwemithathu kuya kwemibili. Abane kulaba basebenzi bahlanganisa isivumelwano sokusebenzisa umkhumbi owodwa ukuze basebenzise konke abanako ekudobeni iPatagonian toothfish ese PEI-EEZ. Lomuntu wesihlanu kulababanini-malungelo usebenza ngaphansi kwayo yomibili imithetho ye PEI-EEZ kanye neyasekujuleni kolwandle engaphansi kwendawo ye CCAMLR Convention.

5. Iizinhlosongqangi zembali yokudoba

Iinhlosongqangi yokunikezela ngezimvume zokudoba zesikhathe eside embonini yokudoba iPatagonian toothfish yilezi:

- Ukuqinisekisa kokubakhona kwemikhumbi yaseNingizimu Afrika kwi PEI-EEZ kanye nasemajukujukwini olwandle ngaphansi kwendawo yeCCAMLR Convention ukuvimbela i IUU ukudoba.
- Ukwenza ngcono ingcaciso ngoshintsho olusezindaweni zokudoba;
- Ukukhuthaza ukutshalwa kwezimali emikhunjini nakwezokuxhumana kanye nemisebenzi;

- Ukwehliswa kokubanjwa okungagwemeki kwezinhlanzi ezingadingeki kanye nelahleko ephathelene nokudoba ngentambo ende ngokufuna ezinye izindlela zokudoba;
- Ukuseka ngezimali ibhizinisi lokudoba; kanye nokuseka ukuqhubeka okufanele kwezemvelo ekudobeni.

Amanye amalungelo omthetho omdala obuphathe ayacaciswa ngokubanzi lapha ngezansi.

6. Isikhathi esithathwa yizimvume kanye nemikhawulo yemizamo

Kubhekiswa lezizinto -Kunikwa ingqaliselo –

- Isimo semvelo esintengayo salengcebo yalezizinhlanzi;
- Ingqikithi ngolwazi olukhulu oludingekayo ngempilo yePatagonian toothfish;i yokuqala ishishini eninzi;
- Ingqikithi engukuthi lokhu kudoba kudinga izimali ezinkulu;
- Isidingo sokugcina isibalo esikhulu semisebenzi ekudobeni; kanye
- Izinhloso ze CCAMLR,

UMnyango uzokwaba amalungelo enzuzo yesikhathi esevile eminyakeni elishumi (01 Januwari 2006 ukuya ku 31 Disemba 2015). Bonke abanikazi malungelo kuzomele bahlolwe isikhathi nesikhathi ukukala ukudoba kahle kwenkampani.

Ngokubhekisele emizameni yokudoba , uMnyango ufuna ukunciphisa isibalo semikhumbi edobayo ibe ngemibili.

7. Abafikayo embonini yokudoba

Amalungelo angaphansi kohlelo 18 lwe Marine Living Resources Act abengakaze anikezelwe ekudobeni iPatagonian tothfish. Ngokusho ngokugcwele akukaze kube khona abanamalungelo . Umnyango uzokwamkela izicelo ezivela zinkalo zonkana ngokungakhethi ukuthi uke waba nemvume yokulinga ekudobeni okanye awukaze. Ngenxa yobucayi besimo salengcebo, ange babe ngaphezulu kwabantu abahlanu abanamalungelo. Nakuba, uMnyango ungalingqabi ithuba lokufake omunye endaweni yalowo obenelungelo lokulinga, akuqiniseki ukuthi abacela izimvume

bayothathwa.

8. Inqubo yokuhlunga obo yokulinganisa yokuvavanya

Abacela izimvume zenzuzo yamalungelo ePatagonian toothfish bazokuhlungwa ngokwesikali senqubo yokukhetha nangokwesibalo sokulinganisa.

8.1 Unqubo yokungamkeleki kwabathile

Ngaphandle kwezinqubo ezichazwe kumgomo-jikelele ophathelene nokufakwa kwezicelo kanye nokungabi sesimweni esigculisayo kwezikebhe zokudoba, uMnyango ngeke uzamukele izicelo ezihluleka ukuhlangabezana nalezi zidingo:

- (a) **Uhlobo lwabantu abavumeleke ukufaka izicelo:** Kuzobhekwa kuphela izicelo zalabo abafake ohlelweni lwe Close Corporation Act 69 ka 1984 kanye ne Companies Act 61 ka 1973. Abafaka izicelo ngabodwana okukanye abazisebenzelayo bayokushaywa indiva.
- (b) **Ukuhambisana nohlelo :** Abanini malungelo, kuditshaniswa abaqondisi noma abaphathi abanesabelo abake baba namacala ngokomthetho we MLRA (bengazange bafinyelele ekukhokheni inhlawulo yecala) , uMthetho wasoLwandle , iConvention, isibikezelo okukanye isivumelwano seCCAMRL, okukanye izimiso zezilwandle zamanye amazwe okukanye imithetho yokudoba, abaseyukunikwa ilungelo lokudoba iPatagonian toothfish. Izicelo zabanini-malungelo ngisho nabaqondisi noba abaphathi abanesabelo, abaye bayekiselwa amalungelo okudoba ngokomthetho weMLRA nabo angeke banikwe amalungelo okudoba iPatagonian toothfish.

Abanini malungelo, ngisho nabaqondisi noma abanessabelo abaphethe abasaseshwayongokophula noma ngumuphi umthetho ebaliwe ngenhla, noma nongowulelesi okukanye wokuphatha abaseyukunikwa malungelo okudoba iPatagonian toothfish kuze kuphele ukuphenywa kwecala.

- (c) **Isilinganiso samaphepha :** Isilinganiso samaphepha njengoko sichaziwe kuMthetho-

Jikelele siyokwenqatshwa.

- (d) **Ukufinyelela emikhunjini egculisayo:** Abafake izicelo kuzomele babonakalise iziqinisekiso zokuba nemikhumbi egculisayo (*bona isigaba 9 ngezansi*).

8.2 *Inqubo eqhathanisayo yokulinganiso*

Abafaki zicelo abangabanikazi malungelo kanye nabafikayo embonini yokudoba bazohluzwa ngokomlinganiselo wesikali sokulinganisa esizokala ngokwamandla esicelo ngasinye:

(a) **Ushintsho**

Izinjongo zoMnyango ngesikhathi sokwabiwa kwamalungelo okudoba esikhathi eside zizoba ngezokugcina okukanye ukuthuthukisa ushintsho lube kumazinga ale mihla. Njengoba kushiqo kuMthetho Jikelele, abacela izimvume bazokuhlungwa baakhethwe ngalendlela –

- Inani ekhulwini labamnyama kanye nokumeleka kwabesifazane abangabanikazi nabaphethe emazingeni aphezulu okuphatha.
- Uma abasebenzi bengamalungu emboni efake isicelo semvume yokudoba kuphinde kudalulwe indlela abazohlomula ngayo.
- Ukunikwa kwamathuba kulabo abebecindezelekile ngokomlando;
- Ukumelwa kwabansundu kanye nabesifazane emazingeni ahlukene okuphatha angaphansi kwamandla esigungu;
- Ukuhambisana nomthetho we Employment Equity Act, ekwakhiweni kwamakhono okusebenza kanye nentela ekhokhwa ngokudoba. Abacela izimvume abangahambisani bayokunqatshelwa ilungelo lokudoba banze inzuzo; futhi
- Nokutshalelwa komphakathi izimali yizimboni ezizimeleyo.

(b) **Ukutshalwa kwezimali embonini yokudoba**

Abafake izicelo zezimvume zokudoba bazohlungwa ngalendlela:

- Ukutshalwa kwezimali emikhunjini yokudoba egculisayo. Ngenxa yalokho, ukutshalwa kwezimali ngendlela yokwabelana okukanye izivumelwano zokuthengiselana zizokunakwa. Abafake izicelo bazoklonyeliswa ngokuqeda

kwabo ukufundela izivumelwano okukanye ukufunda ngokubamba; futhi

- Imizamo yotshalo zimali ekukhangiseni lemboni yePatagonian toothfish.

(c) Ulwazi ngemboni yokudoba

Abafake izicelo kuzodingeka babonise ukuthi batshalile izimali futhi banalo yini ulwazi olufunekayo ekudobeni iPatagonian toothfish.

(d) Ukuba ngohlanganyelayo kumalinge entengiso yokudoba

Abafake izicelo abaphumelele ekuhlanganyeleni ukulinga kokudotshwa kwePatagonian toothfish yibona abazokhethwa kuqala. Ngenxa yalokho, uMnyango uzobheka phakathi kokunye, izinga lokubamba, ukubika kanye nokunika izimvume ngokwendlela kaCCAMLR yemigomo yokulondoloza.

(e) Okubanjwe ngokungenhloso nokulahlwayo

Abafaki zicelo kuzodingeka ukuthi babonise indlela yokunciphisa nokubanjwe ngokungenhloso kanye nezindlela abazibekela ukunciphisa abazozilandela, ukuqinisekisa ukufa kwezinyoni zasolwandle nokubanjwa ngokungenhloso kuzoncitshiswa.

Ukulahlwa kwezinhlanzi akuvumelekanga futhi abanikazi bamalungelo abazotholwa ukuthi balahla izinhlanzi abaseyikunikezwa amalungelo okukanye uma benikiwe, lawo malungelo angagodlwa ngokomthetho kaSection 28 of the Act.

(f) Ikhono lokuqala umsebenzi wemboni yokudoba

Amathuba akhethekile anganikezwa abafaki zicelo abakwazi ukubonisa ukuthi bangakwazi ukuqala umsebenzi embonini yokudoba emva kokunikwa amalungelo.

(g) Imisebenzi

Nakuba lemboni yokuloba isencane kwezokudoba, iqasha inani elincane labantu, kuzobhekwa ukuthi abantu bathola imisebenzi eyikhwalthi. Umnyango uzakukhetha labo bafaki zicelo abanikeza izisebenzi zabo lokhu—

- Umsebenzi osisigxina;
- iMedical aid kunye nomhlalaphantsi;
- Nazo naziphina ezinye izibonelelo zomsebenzi; kunye
- Neemeko zomsebenzi ezikhuselekileyo.

Imisebenzi edaliweyo ngetoni nganye yentlanzi anelungelo layo ngexesha lokulingwa isenokuvavanywa kwaye ithathelwe ingqalelo. ISebe lizakuphonononga nomahluko kwimirholo phakathi kwabahlawulwa eyona mali ephezulu nabahlawulwa oyona incinci.

(h) Ukuthobela

Ukungathobeli mthetho we MLRA okungabheke ndawo, kubandakanya nemiyalelo yawo, ngumfaki sicelo okanye abongameli okanye abanini zabelo abalawulayo kuya kukhokelela ekubeni umfaki sicelo afumane isohlwayo.

8.3 Inqobo yokulinganisa umyinge ofunekayo

Umyinge ofunekayo uyakuxhomekeka ekubeni unokubambisa kangakanani na kwaye, apho kunakho, intsebenzo yangaphambili yomfaki sicelo. Iinkcikacha ziya kuba ngumongo wokucebisa phakathi kwabafaki zicelo abaphumeleleyo neSebe phambi kokuba iimvume zikhutshwe

9. Iinqanawa ezifanelekileyo

Inqanawa efanelekileyo kushishino lokuloba i Patagonian toothfish yinqanawa :

- enobude obumalunga nama 40 eemitha ubuncikane obuqinisekiswa yi SAMSA;
- efakelwe ubuchwepheshe obusebenzayo bokujongana nenqanawa;
- elungiselelwe ukuloba ngemitya emide kwaye ibenakho ukuthwala iimbiza zokuloba;
- iqiniselelwe ukumelana nomkhenkce (ukuba umfaki sicelo uzimisele ukuloba ngezantsi kwe 60° emaZantsi);
- ayikho kuluhlu lweenqanawa ezingavumelekanga nakowuphi na umbutho wezoshishino lokuloba wezizwe okanye wommandla; kwaye

- eneflegi yoMzantsi Afrika. ISebe liyakuqwalasela inqanawa eneflegi yelinye ilizwe njengefanelekileyo ukuba inqanawa leyo iyayithobela yonke le mithetho ingentla kwaye umnikazi wayo wenza isibhambathiso esibhaliweyo sokuba inqanawa yakhe iyaku fakwa kwakhona iflegi njengeyoMzantsi Afrika zingagqithanga iinyanga ezili 12 emva kokuba enikiwe ilungelo lokuloba.

10. Ukubandakanyeka kwamaCandelo amaninzi

Abanini malungelo kushishino lokuloba iPatagonian toothfish abalelwanga ukuba abangebinawo amalungelo kwamanye amashishini okuloba aku Cluster A no Cluster B. Abanini malungelo okuloba kolu shishino lokuloba i Patagonian toothfish (ndawonye nabanini zabelo abalawulayo kunye neqela lamalungu esebe lolawulo) awasayi kuvunyelwa ukubamba amalungelo okurhweba ngokuloba kumashishini okuloba aku Cluster C no Cluster D.

11. Imirhumo yezicelo kunye neerhafu

Umrhumo wesicelo soshishino ngokuloba i Patagonian toothfish uyakubekwa kuthathelwa ingqalelo oku:

- Ixabiso layo yonke inkqubo yokunikezwa kwamalungelo, kuquka neengcebiso, iirisithi, ukuvvanywa kwezicelo, izibheni nezigxeko-ncomo. Ngokubhekiselele koku iindleko ezenziwe ngele xeshana ziyakusetyenziswa njengesikhokelo; kunye
- Nexabiso lentlanzielisikelweyo ngexesha lelungelo

Iirhafo zonyaka ngamnye ezibhatalwa ukususela ngomhla we 01 Januwari 2006 ziya kuhlaziywa, emva kokucebisa namqela anomdla nachaphazelekayo.

12. Amanyathelo okuphatha

La manyathelo okuphatha axoxwa ngezantsi abonisa iqela leenjongo zeSebe zasemva kokunikezwa kwamalungelo kolu shishino lokuloba.

12.1 Ukuphathwa ngendlela yonakekelo lwendalo kwamashishini okuloba

Olu shishino lokuloba luyakuphathwa ngokungqamene nendlela yonakekelo lwendalo (i "EAF"). Indlela yonakekelo lwendalo kushishino lokuloba yinkqubo engumdibaniso equka konke eyaziyo ukuba ukuloba nentshukumo zasemhlabeni ezingqamene nako zinefuthe kubume nemeko jikelele yezolwandle. Le ndima kwinkqubo yokulotywa kwe Patagonian toothfish ayizami kunika nkcazelo yenkqubo ye EAF kushishino lokuloba iPatagonian toothfish. I- EAF kushishino lokuloba i Patagonian toothfish iyakuchazwa ngokuthe xhaxhe kwi Fishery Management Manual. UMzantsi Afrika usahleli uzinikele kumhla okujoliswe kowo ka 2010 wokusetyenziswa kwe EAF kushishino lorhwebo ngokuloba

12.2 Iingingqi zezolwandle ezikhuselweyo

UMphathiswa wezoBume beNdawo nezoKhenketho ubonakalise ukuzimisela kwakhe ukubhengeza njengengingqi yezolwandle ekhuselweyo ingingqi engqonge iziQithi zePrince Edward. Ngokwenjalo, iSebe lithemba ukuba kuyakulondolozwa indalo ngokwahlukana kwayo wezi ziqithi ze sub-Antarctic kunye namanzi azingqongileyo. Injongo kwesisigaba kukungavumeli nakuphi na ukuloba kula manzi akhuselweyo (okt. ngaphakathi kwingingqi yeemayile zamanzi olwandle ezili 12) kodwa kuvunyelwe ukuloba okulawulwayo emanzini angaphaya kwale mida yeemayile ezili 12. UMphathiswa uya kuthi, noxa kunjalo, adlane indlebe nawo onke amaqela anomdla nachaphazelekayo ngalo mba ngokuhamba kwexesha.

12.3 Ukumanywa kwabathathi- nxaxheba

Njengoko kubhaliwe ngentla apha, abathathi nxacheba abahlanu babesele benikiwe iimvume ezisalingwayo zokuloba iPatagonian toothfish. Abane kwaba banini zimvume bayidibanisile imisebenzi yabo. Ngokwangoku, zimbini iinqanawa ezisebenzayo kolu shishino lokuloba lusalingwayo. Ukumanyana ke ngoko akunanto yakwenza kolu shishiso lokuloba

12.4 *linqanawa neenzame zokuloba*

Njengoko kuchaziwe kumhlathi we 6 apha ngentla, iSebe lijonge ukugunyazisa iinqanawa ezimbini kuphela ukuba zisebenze kolu shishino lokuloba. Iinqanawa mazilungiselelwe ukuloba ngemitya yokuloba emide, zisebenzisa izixhobo zokuthibaza ukuanjiswa okusecaleni kweentaka.

Ukongeza apho, iinqanawa ziyakuvunyelwa ukuba zithwale iimbiza zokuloba.

12.5 *Ukunika ingxelo*

Bonke abanini malungelo kolu shishino lokuloba bazakunyanzeleka bathobele imimiselo engqongqo yokunika ingxelo ukuqinisekisa ukuba bona kunye noMzantsi Afrika bayahambelana nemitqathango yezizwe zonke kolu shishino lokuloba. Okungakumbi, abanini malungelo kufuneka bethobele nemitqathango ye *Dissostichus* Catch Document (I-DCD) eyakhutshwa yi CCAMLR, ize inike ingxelo ngendlela yeVessel Monitoring Systems (i VMS).

Ukothulwa emhlabeni ngakunye kwePatagonian toothfish makukhatshwe yi DCD kwate i Port State kufuneka iqinisekise imeko yolobambiso ngokuxilonga iploti ye VMS eyakube inikezwe yinqanawa leyo.

13. *Ukulinganiswa kwamandla okwenza*

ISebe lizakuqalisa iqela lemisebenzi yokulinganiswa kwamandla okwenza de liphele ixesha elisikelwe amalungelo orhwebo ngokuloba. Kulindeleke ukuba owokuqala umsebenzi wokulinganiswa kwamandla okwenza uyakuthi wenziwe emva kweminyaka emibini ze emva koko wenziwe rhoqo emva kweminyaka emithathu

Nangona iSebe lizakuqokumbela ezona nqobo zokulinganisa abazakuthi bavavanywe ngazo abanini- zimvume, ezi nqobo zilandelayo zinxulumene namandla okwenza zisenokusetyenziswa:

- inguqu;
- utyalo zimali kwiinqanawa nezixhobo;
- ukusetyenziswa okuqhubekayo, kunye nangakumbi ifuthe lokuloba ngemitya yokuloba emide neembiza zokuloba kwi bhayoloji nenzululwazi ngendalo

- ukuthotyelwa kwemithetho elawulayo nemiqathango (zombini ezelizwe nezamazwe).

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14. Inkqubo yabakhi-mkhanyo

Inkqubo yangoku yesebe yabakhi-mkhanyo iza kwandiswa ukuquka ndawonye ukujonga ukuthotyelwa. Abanini malungelo bazakufuneka bathwale umakhi-mkhanyo ngohambo ngalunye Abanini malungelo balindeleke ukuba ibe ngabo abathwala iindleko zenkqubo yabakhi-mkhanyo.

15. Imiqathango yemvume

Imiqathango yemvume yolu shishino iza kukhutshwa rhoqo ngonyaka. Imiqathango yemvume esebenzayo kushishino lokuloba olusalingwayo yonyaka ka 2005 incanyathiseiwe njenge **Annexure A**. Amaqela anomdla nachaphazelekayo ayamenywa ukuba aveze ezawo izimvo kule miqathango yemvume.

ANNEXURE J

DRAFT



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

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1. Introduction

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

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General Patagonian Toothfish Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 Patagonian Toothfish Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General Patagonian Toothfish Policy Comments By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Patagonian Toothfish Policy Comments
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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 Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

Certain post-rights allocation management policies are also presented in this draft policy. A 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 of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate commercial Patagonian toothfish fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department.

2. Biology and resource dynamics

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 (EEZs) of Chile, Argentina and many other countries with sovereignty over southern Ocean islands. South Africa's EEZ around the Prince Edward Islands is a prime fishing ground for Patagonian toothfish. Much of the range of Patagonian toothfish 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 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, the Department of Environmental Affairs and Tourism issued five experimental permits (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 ("TACs") for this fishery. The TAC for the 1996/1997 fishing season was set at 2 500 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 Commission for the Conservation of Antarctic Marine Living Resources ("CCAMLR") Convention Area. South Africa is a founding member of CCAMLR, which is the regional fishery management organisation tasked with primarily monitoring and allocating catching rights for Patagonian toothfish in Antarctic waters. Patagonian toothfish have been targeted by poachers as toothfish is a sought after white fish on Asian and North American markets. Patagonian toothfish is a high value white fish that fetches prices as high as US\$7 000 per ton. It is the fish's high value that has contributed to the high levels of Illegal, Unregulated and Unreported ("IUU") fishing in the fishery.

Poaching in the PEI-EEZ has 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 Department 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 massive.

4. Experimental permit allocation

Commercial fishing rights have never 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 for the catching of Patagonian toothfish in the PEI-EEZ. The fifth permit holder operates 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 vessels in the PEI-EEZ and on the high seas within the CCAMLR Convention area in order to deter IUU fishing.
- 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 alternative 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 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 investments;
- 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,

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

With regard to the effort to which this fishery will be subjected, the Department intends to limit the number of vessels in this fishery to two.

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 Department will accept applications from entities regardless of whether they held an experimental permit for this fishery. Due to the precarious state of the resource, no more than five right-holders can be accommodated. Furthermore, although the Department does not exclude the possibility of replacing the experimental right-holders, it is unlikely that any other applicants will be admitted.

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 Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. Individuals or sole proprietors) will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine), the Law of the Sea, the 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. Right-holder applicants, including the directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a Patagonian toothfish fishing right.
- Right-holders, including their 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, will 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

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:

(a) Transformation

The Department's objective during the process of allocating long-term fishing rights in this fishery is to maintain or improve on the present levels of transformation. As stipulated in the General Fisheries Policy, applicants will be assessed and scored on –

- The percentage black and women representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representivity of blacks and women at the various levels below executive management;
- Compliance with the Employment Equity Act, as well as legislation on skills development and fishing levies. Applicants that do not comply with these laws may be refused a commercial right; and
- Corporate social investment.

(b) Investment in the fishery

Applicants will be evaluated on:

- Investments in suitable vessels. In this regard, investment in the form of shareholding or purchase agreements will be considered. Applicants may be rewarded for having concluded charter agreements or catching agreements; and
- Investment in and access to markets for Patagonian toothfish.

(c) Knowledge of the fishery

Applicants will be required to demonstrate whether they have invested in and 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 Department 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 reduced.

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

(f) Ability to commence with fishing operations

Preference will be given to applicants who are able to demonstrate that they are able to commence with fishing operations soon after a right is allocated.

(g) Jobs

Although this fishery is a small fishery, employing a small number of people, the provision of quality jobs will be taken into account. The Department will prefer those applicants that provide their employees with –

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

Jobs created per ton of fish allocated during the experimental phase may be assessed and taken into account. The Department will also have regard to the wage differentials between the highest and lowest paid employees.

(h) Compliance

Minor infringements of the MLRA, including its Regulations, by the applicant, its directors

or controlling shareholders will result in the applicant being 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 details will be the subject of consultation between successful applicants and the Department before permits are issued.

9. Suitable vessels

A suitable vessel in the Patagonian toothfish fishery is a vessel that:

- has a minimum SAMSA certified 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);
- is not black-listed by any international or regional fishery organisation; and
- is South African flagged. The Department 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 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.

11. Application fees and levies

The application fee for the Patagonian toothfish fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews. In this regard the costs incurred during the medium-term process will be used as a guide; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with affected and interested parties.

12. Management measures

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

12.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is 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 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 Department intends to only 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.

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).

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 applicable to the experimental fishery for the 2005 season are attached as **Annexure A**. Interested and affected parties are invited to comment on these permit conditions.

ANNEXURE K

KONSEP



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

Konsep Patagoniese Tandvis Beleid: Maart 2005

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1. Inleiding

Hierdie dokument is 'n konsepbeleid vir openbare kommentaar aangaande die toekenning en bestuur van kommersiële visvangregte vir die Patagoniese tandvis- (*Dissostichus eleginoides*) vissery en word uitgereik deur die Departement van Omgewingsake en Toerisme: Tak Mariene- en Kusbestuur ("die Departement"). Belanghebbende en gEBVfekteerde partye word aangeraai om hierdie beleid saam te lees met die Konsep van die Algemene Beleid aangaande die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid"). Belanghebbende en gEBVfekteerde partye moet teen 4 April 2005 skriftelik kommentaar lewer. Kommentaar wat na hierdie datum ingedien word sal nie oorweeg word nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verleëringseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar
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Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die Patagoniese Tandvis-vissery uiteen te sit. Min van hierdie oorwegings is nuut. Hulle is in die verlede deur die Departement gebruik by die toekenning van regte. Hierdie beleid verteenwoordig tewens 'n dokumentasie van sodanige beleid maar 'n paar veranderings en toevoegings word ingesluit.

Sekere voorgenome bestuursbeleidsrigtings in verband met die toekenning van regte verskyn ook in hierdie konsepbeleid. 'n Bestuurshandboek vir die Patagoniese Tandvis-vissery sal met regtehouers in die loop van 2006 gefinaliseer word. Hierdie handboek sal in die fynste besonderhede die bestuursmetodes en -prosedures vir die vissery uitstippel.

Die Minister van Omgewingsake en Toerisme is voornemens om artikel 18-magte, in terme waarvan kommersiële visvangregte vir die Patagoniese Tandvis-visserij 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.

2. Biologiese 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 uitsluitlike ekonomiese sones (EES) van Chile, Argentinië en vele ander lande wat soewereiniteit oor suidelike eilande in die Oseaan het. Suid-Afrika se EES om die Prince Edward-eilande is 'n belangrike visvanggebied vir Patagoniese tandvis. Die grootste gebied waarin die 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 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 redelik afgeneem sedert die ontstaan van die visserij 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 visserij amper in duie gestort het aangesien onwettige, ongereguleerde en onaangemelde (IUU) visvangste buitensporige vlakke bereik het. Suid-Afrika se gebied rondom die Prince Edward-eilande is uitvoerig geteiken en CCAMLR skat dat tussen 1996 en 1998 so veel as 32 000 ton tandvis, ter waarde van US\$100 miljoen onwettig in die PEI-EEZ 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 visvangvissery ingevolge artikel 83 gereguleer.

In 1996, het die Departement van Omgewingsake en Toerisme vyf eksperimentele permitte (ingevolge die Wet op Seevisserye van 1988) uitgereik vir die oes van Patagoniese tandvis binne die EEZ van die Prince Edward-eilande ("die PEI-EEZ"). Sederdien 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 2 500 ton vasgestel. Die TTV vir die eksperimentele tandvis-vissery 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 Commission for the Conservation of Antarctic Marine Living Resources ("CCAMLR") se jurisdiksie geleë. Suid-Afrika is 'n stigterslid van CCAMLR, 'n streeksvisbestuurorganisasie wat hoofsaaklik verantwoordelik is vir die monitering en toekenning van visvangregte vir Patagoniese tandvis in Antarktiese waters. Patagoniese tandvis is deur stropers geteiken aangesien tandvis 'n gesogte wit vis op Asiese en Noord-Amerikaanse markte is. Patagoniese tandvis is 'n hoë-gehalte wit vis wat tot pryse van tot US\$7 000 per ton haal. Dit is die vis se hoë waarde wat bygedra het tot die grootskaalse onwettige, ongereguleerde en onaangemelde ("IUU") vangste in die sektor.

Stroping in die PEI-EEZ is onder beheer gebring. Die vissery sal kommersieel volhoubaar bly, indien dit doeltreffend gereguleer met deelnemers word, ingevolge die Riglyne wat deur CCAMLR vasgestel is. Die Departement het besluit om langtermyn kommersiële visvangregte in hierdie vissery toe te ken.

Die vissery is 'n hoë risiko, uiters kapitaal-intensiewe vissery, waar van regtehouers vereis word om aansienlike beleggings te maak in vaartuie, toerusting, navorsing en bemaking. Aanvangskoste verg 'n kapitaalbelegging van verskeie miljoene rand en operasionele koste is massief hoog.

4. Toekenning van eksperimentele permitte

Kommersiële visvangregte is nog nie in hierdie visserij toegeken nie. In 1996 is vyf eksperimentele permitte om Patagoniese tandvis te vang, uitgereik. Na mate die TTV afgeneem het, het die vyf eksperimentele permit-houers saamgespan, ten opsigte van koste en werk deur die drie vaartuie na twee te verminder. Vier van die operateurs het 'n gesamentlike sake-ooreenkoms aangegaan om een vaartuig te gebruik en het hul hulpbronne doeltreffend saamgepoel om Patagoniese tandvis in die PEI-EEZ te vang. Die vyfde permit-houer opereer in die PEI-EEZ en op die oop see binne die CCAMLR-gebruiksgebied.

5. Oorkoepelende sektorale doelwitte

Die oorkoepelende doelwitte vir die toekenning van langtermyn visvangregte in die Patagoniese tandvis-visserij is om:

- Suid-Afrikaanse vaartuie in die PEI-EEZ en op die oop see in die CCAMLR-gebied te verseker om IUU-vangste af te skrik.
- Die transformasie-profiel van die visserij te verbeter.
- Belegging in Suid-Afrikaanse vaartuie, infrastruktuur en werksgeleenthede aan te moedig;
- Die vermybare byvangste en verliese aan vangste wat met langlynvangste verbind word, te verminder deur alternatiewe visvangmetodes te ondersoek;
- Die ekonomiese lewensvatbaarheid van die visserij te ondersteun; en
- Die omgewingsvolhoubaarheid van die visserij te ondersteun.

Sekere oorwegings oor voorgenome bestuursbeleid aangaande regte-toekenning word breedweg hieronder uiteengesit.

6. Die tydsduur van regte en beperking van pogings

Met inagneming van –

- Die bedenklike biologiese toestand van die bron;
- Die feit dat aansienlike kapitaalbeleggings vereis word in die vissery;
- Die feit dat aansienlik meer data oor die biologie van die Patagoniese tandvis benodig word;
- Dit nodig is om die aantal werkseleenthede in die vissery te handhaaf; en
- Die doelwitte van CCAMLR,

sal die Departement kommersiële regte vir 'n periode van nie langer as 10 jaar (01 Januarie 2006 tot en met 31 Desember 2015) toeken. Elke regtehouer sal egter gereeld volgens voorafbepaalde prestasiekriteria getoets word.

Ten opsigte van die poging wat toegelaat sal word in hierdie vissery, is die Departement voornemens om die aantal vaartuie in hierdie vissery tot twee te beperk.

7. Nuwe inkomelinge

Regte is ingevolge artikel 18 van die Wet op Lewende Mariene Hulpbronne nie tevore vir Patagoniese tandvis toegeken nie. Dus is daar nie bestaande regtehouers nie. Die Departement sal aansoeke van entiteite ontvang ongeag of hulle 'n eksperimentele permit vir hierdie vissery gehou het. As gevolg van die bedenklike toestand van die bron, kan nie meer as vyf regtehouers akkomodeer word nie. Hoewel die Departement nie die moontlikheid uitsluit dat eksperimentele regtehouers vervang sal word nie, is dit onwaarskynlik dat enige ander aansoekers toegelaat sal word.

8. Evaluasiekriteria

Aansoeke om kommersiële visvangregte vir Patagoniese tandvis sal in terme van uitsluitings- en balanseringskriteria geëvalueer word.

8.1 Uitsluitingskriteria

Behalwe die kriteria wat in die algemene beleid verskyn oor die indiening van aansoeke en wesenlike defekte, sal die Departement 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, Wet 69 van 1984 en die Maatskappywet, Wet 61 van 1973, sal oorweeg word. Aansoeke van natuurlike persone (d w s individue of alleen-eienaars) sal nie in aanmerking kom nie.

(b) **Wetsnakoming:** Regtehouers, insluitende die direkteure of beherende aandeelhouders wat skuldig bevind is aan 'n misdryf ingevolge die WLMH (sonder die opsie om 'n boete te betaal), die Seewet, die Konvensie, verklaring of verdrag van CCAMLR, of die bepalings van enige ander land se mariene- en/of visvangwette, sal nie 'n reg vir Patagoniese tandvis toegeken word nie. Regtehouers, insluitende die direkteure of beherende aandeelhouders wie se visvangregte gekanselleer of ingetrek is ingevolge die WLMH, sal ook nie regte vir die Patagoniese tandvis-vissery toegeken word nie.

Regtehouers, insluitende hulle direkteure of beherende aandeelhouders, wat tans ondersoek word vir oortreding van enigeen van die wette of regsinstrumente hierbo gelys, hetsy krimineel of administratief, sal nie regte vir die Patagoniese tandvis-vissery toegeken word, voordat die ondersoek nie afgehandel is nie.

(c) **Papier-kwota's:** Papier-kwota's soos in die Algemene Beleid uiteengesit, sal uitgesluit word.

(d) **Toegang tot 'n geskikte vaartuig:** Aansoekers moet bewys kan lewer dat hulle 'n reg tot toegang tot 'n geskikte vaartuig beding het. (*sien paragraaf 9 hier onder*).

8.2 Vergelykende balanseringskriteria

Regthouer-aansoekers en potensiële nuwe inkomelinge sal geëvalueer word in terme van die volgende balanseringskriteria, waaraan verskillende gewig toegeken sal word, ten einde die sterkte van elke aansoek te bepaal:

(a) Transformasie

Die Departement se doelwit vir proses van toekenning van langtermyn visvangregte in hierdie visvangvisserij, is om die huidige vlakke van transformasie in stand te hou, of te verbeter. Soos deur die Algemene Visvangvisserijbeleid vasgestel sal die aansoekers evalueer word volgens -

- Die persentasie swart persone en vroue wat op eienaarsvlakke en uitvoerende bestuursvlakke verteenwoordig is;
- Of werknemers aandeelhouders van die aansoeker is en voordele wat hulle hieruit kry;
- Regstellende aankope;
- Die aantal swarte persone en vroue op die verskillende vlakke benede uitvoerende bestuur;
- Nakoming van die Wet op Gelyke Indiensname, asook van alle wetgewing oor vaardigheidsontwikkeling en visvangheffings. Aansoekers wat nie aan hierdie wette voldoen nie, mag 'n kommersiële reg geweier word; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die visvangvisserij

Aansoekers sal geëvalueer word volgens:

- Beleggings in geskikte vaartuie. In hierdie verband sal beleggings in die vorm van aandele of koopkontrakte in aanmerking geneem word. Aansoekers mag beloon word vir die sluiting van skeepshuurooreenkomste of vangste-ooreenkomste; en

- Belegging in en toegang tot markte vir Patagoniese tandvis.

(c) Kennis van die visserij

Daar sal van aansoekers sal verwag word om bewys te lewer dat hulle investeer het in die nodige kennis om Patagoniese tandvis te vang.

(d) Deelneming aan die eksperimentele visvangvisserij

Aansoekers wat suksesvol deelgeneem het aan die eksperimentele visvangvisserij vir Patagoniese tandvis sal voorkeur geniet. In hierdie verband sal die Departement onder andere vangsteprestasie, verslagdoening en nakoming van permitvereistes en bewaringsmaatreëls van CCAMLR, oorweeg.

(e) Byvangste en storting

Daar sal van aansoekers vereis word om aan te toon watter belegging hulle gemaak het, of sal maak, in metodes om byvangs te temper en verminder en watter maatreëls hulle tref om te verseker dat seevoëlmortaliteit vermy, en byvangste verminder word.

Die storting van vis word verbied en regtehouers wat gevang word by die stort van vis mag nie 'n reg toegeken word nie, of indien 'n reg reeds toegeken is, mag die reg ingevolge artikel 28 van die Wet ingetrek word.

(f) Vermoë om met visvangbedrywighede te begin

Voorkeur sal verleen word aan aansoekers wat kan bewys dat hulle instaat is om kort nadat 'n reg toegeken is, met visvangbedrywighede te begin.

(g) Werksgeleenthede

Hoewel hierdie 'n klein visserij met min werkers is, sal voorsiening van gehalte-werksgeleenthede in aanmerking geneem word. Die Departement sal aansoekers verkies wat hulle werknemers voorsien met -

- Voltydse werk;
- Mediese bystand en pensioen;
- Enige ander indiensnemingsvoordele; en
- Veilige werksomstandighede.

Werkseleenthede per ton vis toegeken tydens die eksperimentele fase, mag oorweeg en in aanmerking geneem word. Die Departement sal ook die loonverskille tussen die hoogste en laagste besoldigde werknemers in ag neem.

(h) Wetsnakoming

Geringe oortredings van die WLMH, insluitende die Regulasies, deur die aansoeker, die direkteure of beherende aandeelhouders sal daartoe lei dat die aansoeker gepepaleer word.

8.3 Kwantumkriteria

Kwantum sal toegeken word met verwysing na die vangstevermoë en waar van toepassing, die vorige prestasie van 'n aansoeker. Die Departement sal suksesvolle aansoekers hieroor konsulteer voordat permitte uitgereik word.

9. Geskikte vaartuie

'n Geskikte vaartuig in die Patagoniese tandvis-vissery is 'n vaartuig wat :

- 'n minimum SAMSA-gesertifiseerde lengte van ongeveer 40 meter het;
- toegerus is met 'n funksionerende vaartuigmoniteringstelsel;
- aangepas is vir langlynwerk en in staat is om vispotte te dra;

- teen ys versterk is (indien die aansoeker voornemens is om suid van 60° Suid te vang);
- nie deur enige internasionale of streeksvissery-organisasie geswartlys is nie; en
- van 'n Suid-Afrikaanse vlag voorsien is. Die Departement 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 ondemeem 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 hulle beherende aandeelhouers en lede van hulle uitvoerende bestuursplan) sal nie toegelaat word om kommersiële visvangregte in Groep C- en Groep D-visserye te hou nie.

11. Aansoekgelde en heffings

Die aansoekgeld vir die Patagoniese tandvis-vissery sal vasgestel word met inagneming van:

- die koste van die algehele regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings. In hierdie verband sal die koste aangegaan in die mediumtermyn proses as riglyn dien; en
- die waarde van die vis wat toegeken word oor die tydskuur van die reg.

Die jaarlikse heffings wat betaalbaar is met ingang van 01 Januarie 2006 sal hersien word, in oorleg met gEBVfekteerde en belanghebbende partye.

12. Bestuursmaatreëls

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

12.1 Ekosisteem-benadering tot bestuur van visvangvisserij

Hierdie visvangvisserij sal bestuur word ooreenkomstig die ekosisteem-benadering tot die visserij ("EBV"). 'n Ekosisteem-benadering tot die bestuur van visserij is 'n holistiese en geïntegreerde beleid wat erkenning gee daaraan dat visvang en gepaardgaande land-gebaseerde bedrywighede die breë mariene omgewing kan beïnvloed. Hierdie deel van die Patagoniese tandvis-beleid is egter nie daarop gerig om 'n beleidsverklaring oor EBV in die Patagoniese tandvis-visserij te maak nie. Die EBV in die Patagoniese tandvis-visserij sal verder in die Bestuurshandboek vir die Patagoniese tandvis-visvangvisserij uiteengesit word. Suid-Afrika bly gebonde tot 'n teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visvangvisserij.

12.2 Mariene beskermde gebiede

Die Minister van Omgewingsake en Toerisme is voornemens om 'n Mariene Beskermde Gebied in die omgewing om die Prince 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. die mariene gebied binne 12 seemyl) te verbied en permit-beheerde visvangste 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 gesien, is eksperimentele permitte vir Patagoniese tandvis aan vyf deelnemers uitgereik. Vier van hierdie permithouers het hulle werksbedrywighede gekonsolideer, Tans is daar net twee vaartuie in die eksperimentele visserij werksaam. Konsolidasie is dus nie van enige besondere belang in hierdie visserij nie.

12.4 Vaartuie en visvangpogings

Soos in **paragraaf 6** hierbo verklaar, is die Departement voornemens om die gebruik van slegs twee vaartuie vir hierdie visserij te magtig. Die vaartuie moet toegerus wees om met langlyne te vang en geskikte toerusting te gebruik om voël-byvangste te beperk. Verder sal die vaartuie toegelaat word om vispotte te dra.

12.5 Verslagdoening

Alle regtehouers in hierdie visserij moet streng by verslagdoeningsmaatreëls hou om te verseker dat hulle, en Suid-Afrika, voldoen aan internasionale vereistes vir hierdie visvangvisserij. Regtehouers sal in die besonder moet voldoen aan die vereistes van die *Dissostichus* Catch Document (DCD) deur CCAMLR uitgereik, en deur middel van Vaartuigmoniteringstelsels (VMS) verslag doen. 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 wat deur die vaartuig verskaf word, te ondersoek.

13. Die meet van prestasie

Die Departement sal 'n aantal formele ondersoeke instel om prestasie in die gebruik van regte te meet. Daar word beoog om die eerste prestasiebepaling na twee jaar uit te voer en elke drie jaar daarna.

Hoewel die Departement die presiese kriteria waarteen regtehouers gemeet word, na die toekenning van kommersiële visvangregte sal finaliseer, kan die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie en toerusting;

- volhoubare gebruik, en in besonder die biologiese en ekologiese gevolge van langlyn- en potvisvangste;
- Nakoming van toepaslike wette en regulasies (nasionaal asook internasionaal).

14. Waarnemersprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassingsdoeleindes in te sluit. Van regtehouers sal verwag word om 'n waarnemer op elke vaart saam te neem. Van regtehouers word verder verwag om die koste van die waarnemerprogram te dra.

15. Permitvoorwaardes

Permitvoorwaardes vir hierdie visvangvissery sal jaarliks uitgereik word. Die permitvoorwaardes van die eksperimentele visvangvissery vir die 2005-seisoen word as **Bylae A** aangeheg. Belanghebbende en gEBVfekteerde partye word uitgenooi om op hierdie permitvoorwaardes kommentaar te lewer.

ANNEXURE L

DRAFT



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

BRANCH MARINE AND COASTAL MANAGEMENT

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE SMALL PELAGICS
(ANCHOVY AND SARDINE PURSE-SEINE) FISHERY: 2005**

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

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1. Introduction

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

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

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

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

The Minister of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate commercial small pelagic 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.

2. Sector profile

The small pelagic fishery dates back to the late 1940's when a fleet of privately owned purse-seine vessels began targeting sardine and horse mackerel. In 1953 an annual maximum catch limit of 270 000 tons was set but was never enforced. As a result, catches regularly exceeded this figure. By 1961, the maximum limit was repealed. In 1962, more than 410 000 tons of sardine were landed, but by 1966, the catch had dropped to 100 000 tons. The fleet then started targeting anchovy, using nets with a smaller mesh size. In 1987 anchovy catches peaked at 600 000 tons, but catches declined thereafter and in 1996 only 40 000 tons of anchovy were landed. Anchovy and sardine catches have subsequently increased, with landings of both species averaging around 250 000t each over the past five years. The fishery is currently managed in terms of an Operational Management Procedure ("OMP") that sets annual Total Allowable Catches ("TAC") for anchovy and sardine.

In terms of catch volumes, the small pelagic fishery remains the largest in South Africa. It is the second most important in terms of value. This fishery's management procedure is the most complex of the commercial fisheries. Two species are the main targets, namely sardine (*Sardinops sagax*) and anchovy (*Engraulus encrasicolus*), with associated by-catch species being red-eye round herring (*Etrumeus whiteheadii*) and Cape horse-mackerel (*Trachurus trachurus capensis*). Sardine are canned for human consumption while anchovy and most of the by-catch species are reduced to fishmeal, fish oil and fish paste.

Small pelagic targeting occurs inshore, primarily along the Western Cape's west and south coasts (anchovy and sardine) and the Eastern Cape coast (sardine).

The pelagic fleet consists of wooden, GRP and steel hulled purse-seine vessels, ranging in length from 15 metres to 30 metres. The industry employs approximately 7 800 people. Of these, 5 300 are employed on a permanent basis and 2 500 on a seasonal basis. The average annual income of sea-going workers is R94 000 – the highest in the fishing industry. Ninety-five percent of workers in this fishery are historically disadvantaged persons. The value of fish landed is presently worth approximately R800 million per annum. The market value of the 106 vessels operating in this fishery is more than R600 million (the average vessel is worth R 7 million). The fishery is capital intensive, with right-holders having to invest in vessels and

processing and marketing infrastructure, or gain access to such through catching and processing agreements.

3. The medium term rights allocation process

In 1992, historically disadvantaged persons controlled some approximately seven percent of the small pelagic fishery. The accommodation of new entrants since 1992, has resulted in a narrowing of the gap between the largest and smallest allocations. Over the same period there has been a ten-fold increase in black involvement and ownership in the fishery (from seven percent to 73 percent). In 2001 and 2002, the Department allocated 113 medium-term (four-year) commercial small pelagic fishing rights. Of these:

- 73 percent were allocated to black-owned entities;
- 75 percent of the TAC is controlled by black-owned entities;
- 85 percent of right-holders are small and medium enterprises (SMEs); and
- 50 percent of all vessels in this fishery belong to black-owned entities.

4. Over-arching sectoral objectives

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

- Maintain or improve the transformation profile;
- Create an environment that attracts investment and stimulates job creation;
- Encourage investment in vessels (particularly the replacement of old vessels) and processing and marketing infrastructure;
- Encourage value-adding by development of new products, particularly products for human consumption;
- Reduce avoidable by-catch; and
- Promote the economic viability and environmental sustainability of the fishery.

The Department will not allocate commercial rights for the sole purpose of utilising fish for bait.

5. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the fact that the current purse-seine fleet is old and requires replacement;
- the high number of quality permanent jobs provided; and
- the need to maintain the economic stability that currently prevails in the fishery,

The Department will allocate commercial rights for a period not exceeding 12 years (01 January 2006 to 31 December 2018). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria.

The Department has decided not to allocate rights for the maximum period of 15 years due to concerns about over-fishing and under-reporting of catches by right-holders. These concerns are currently the subject of an investigation.

6. New entrants

Given the current abundance of anchovy and sardine, together with the inherent variability of stocks of small pelagic fish, it is very likely that the abundance of either or both species will fall substantially in the near future. A substantial decline in the TAC and effort in this fishery is predicted. In addition, this is a high volume, low margin fishery. This means that financially viable long-term allocations need to be substantial.

The Department therefore considers that there is no room for the introduction of additional effort (more than the current 113 right-holders utilising 106 vessels). Existing participants may, however, be replaced in the rights allocation process. New entrant applicants will be granted rights if they –

- are significantly transformed in respect of ownership and management;
- are not fronts for other companies
- have immediate access to a suitable vessel(s) and the capital required to finance a small pelagic operation.

7. Evaluation criteria

Applications will be screened in terms of a set of "*exclusionary criteria*", and thereafter assessed in terms of a weighted set of "*comparative balancing criteria*". A cut-off score will then be determined to select the successful applicants. Rights will be allocated separately for the anchovy and sardine fisheries and applicants may apply for a right in each of these fisheries. A percentage 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 Department will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a small pelagic fishing right. Right-holder applicants, including the directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a small pelagic fishing right.

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

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

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

7.2 Comparative balancing criteria

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

(a) Transformation:

Currently, 73 percent of right-holders in this fishery are black-owned. These right-holders collectively control 75 percent of the TAC. Small- and medium-sized enterprises make up 85 percent of right-holders.

The Department's objective during the allocation of 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 of black and women representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representivity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

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

- Investments in vessels suitable for the harvesting of small pelagic fish. In this regard, investment in the form of a shareholding will be considered;
- Investments in processing and marketing infrastructure.

As far as new entrant applicants are concerned, the Department will consider what investments have been made in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate whether they have the knowledge, skill and ability to fish for small pelagics.

(c) Performance

Right-holder applicants that significantly over- or under-caught (by more than 10 percent) will be penalised. Financial performance will be measured, as indicated in the General Fisheries policy.

(d) By-catch and dumping

The Department is concerned about illegal, directed purse-seining of linefish (yellowtail, white steenbras and kob), and also the exceeding of the precautionary upper catch limit for juvenile horse-mackerel. Fishery interactions with seals are another concern. The unintentional catching of dolphins in nets must be avoided.

The Department will seek to reward those right-holder applicants that have invested in and implemented measures to reduce the capture of by-catch species and to limit interference with marine mammals.

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

(e) Value-adding

The Department may consider the ability of applicants to add value to small pelagic fish for local and international markets. The Department will consider, in particular, whether applicants have invested in or facilitated, directly or indirectly, the development of products for the human consumption of anchovy and sardine.

(e) Local economic development

There is a need for investment and job creation in many of South Africa's smaller coastal towns. The Department will prefer those applicants that elect

to land their catches and have them processed in harbour facilities other than Cape Town and Saldanha. However, larger right-holders in the small pelagic fishery that have invested in facilities in Cape Town and Saldanha will not be penalised.

(f) Jobs

The small pelagic fishery provides approximately 7 800 jobs. Salaries of sea-going personnel average R94 000 annually – the highest in the fishing industry. The majority of workers are employed on a full-time basis, some with benefits such as medical aid and pension.

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

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

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

(g) Non-payment of fish levies

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

(h) Compliance

Applicants that failed to comply with their obligations under the Skills Development Act, 97 of 1998, and the Skills Development Levies Act, 9 of

1999, and those that committed minor infringements of the MLRA (ie infringements which do not justify their exclusion) will be penalised.

7.3. *Quantum criteria*

The fishery is regulated in terms of a Total Allowable Catch ("TAC"). In a recent judgment, the Supreme Court of Appeal held that the methodology used to allocate quantum for sardine and anchovy to right-holders must be revised. This quantum formula was revised for the 2005 fishing season. The Department will allocate long-term small pelagic rights separately for each species and applicants may apply for a right in each fishery. This means that a right-holder applicant for small pelagic fish will be required to specify the quantum of sardine and/or anchovy applied for. The amount allocated will be expressed separately for anchovy and sardine, as a percentage of the TAC for that species.

In respect of right-holders, the Department will use as a base the 2005 allocations, add to that the proportion of TAC of existing right-holders that were unsuccessful or that did not apply, and then apply the following redistribution mechanisms:

- (a) **Transformation pool:** Ten percent of the small pelagic TAC for each species will be redistributed in accordance with transformation scores;
- (b) **Small- and medium-sized enterprises:** Ten percent of the small pelagic TAC for each species will be set aside for redistribution to those successful applicants that are small- or medium-sized enterprises. Small- and medium-sized applicants are considered to be those entities whose annual turnover does not exceed R5 million for medium-size operations and R3 million for small operations;
- (c) **Vessel owners:** Fifteen percent of the small pelagic TAC for each species will be set aside for redistribution to those small and medium-sized enterprises that invested (100 percent) and paid up more than 50 percent of their own small pelagic fishing vessels prior to 30 January 2005;
- (d) **Value-adding:** Fifteen percent of the small pelagic TAC for each species will be set aside for redistribution to those successful applicants that have invested in or facilitated, directly or indirectly, the development of products for the human

consumption of TAC. The scores of successful applicants for value-adding will be used to re-distribute the TAC.

Any new entrant applicant will be allocated an amount equivalent to the lowest of the successful previous right-holder applicants. Where the lowest amount allocated was zero (for either sardine or anchovy), the Department will then allocate the second lowest amount.

8. Suitable vessels

A suitable vessel in the small pelagic fishery is a vessel that:

- has a maximum SAMSA certified length of approximately 30 m;
- has a functioning vessel monitoring system;
- is geared for purse-seining; and
- is not detained or has not been confiscated under the MLRA.

9. Multi-sector involvement

Right-holders in the small pelagic fishery are not precluded from holding rights in any fishery in the Cluster D and Cluster C fisheries. Right-holders in the small pelagic fishery (including their controlling shareholders and members of their executive management team) will not be allowed to hold commercial fishing rights in the Cluster C and Cluster D fisheries.

10. Application fees and levies

The application fee for the small pelagic fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation, verification, appeals and reviews. The costs incurred during the medium-term process will be considered as a guide and

- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with affected and interested parties.

11. Management measures

The management measures set out below are a number of the Department's principal post-right allocation management intentions for the small pelagic 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 land-based activities impact on the broader marine environment. This part of the small pelagic fishery policy does not attempt to provide a policy statement on EAF in the fishery. The EAF in the small pelagic fishery will be detailed further in the Fishery Management Manual for this 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*

Following the allocation of 12-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.

11.3 *Red-eye round herring directed fishery*

Although the small pelagic fishery is focused on anchovy and sardine utilisation, red-eye round herring is also targeted, particularly early in the year. There is evidence that round herring is substantially under-utilised. The Department wishes to generate further revenue and create more jobs by encouraging the better utilisation of this species. To this end the Department is investigating the possibility of creating a managed fishery for this species. The Department reserves the right to introduce such a fishery at any time in the future after consultation with right-holders and other interested parties.

11.4 *Vessels and fishing effort*

There are presently 106 small pelagic fishing vessels that operate in South African waters. As many right-holders do not own the vessels they use and as vessels may require replacement, the Department recognises that many right-holders will seek to introduce further or new vessels after the allocation long-term fishing rights. The Department considers the current effort levels in the fishery to be optimal. Right-holders will not be permitted to introduce vessels capable of expending effort that is 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 *Monopolisation*

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

11.6 *Introduction of a TAE*

Under-reporting of catches has resulted in significant administrative and financial burdens for the Department and constitutes a risk to the proper management of the resource. The Department may consider including a TAE limitation as a management tool for this fishery, and will consult right-holders at a later date on the introduction of this management procedure.

12. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the 12 year period. It is envisaged that the first set of performance measuring exercises will take place after two years and thereafter every two 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 by-catch mitigation and measuring the ecological impacts of purse seining;
- compliance with applicable laws and regulations.

13. Observer programme

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

14. Permit conditions

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

ANNEXURE M

KONSEP



DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

**BELEID VIR DIE TOEKENNING EN BESTUUR VAN KOMMERSIËLE
VISVANGREGTE IN DIE KLEIN PELAGIESE
(ANSJOVIS EN SARDYN BEURSEËN OF BEURSNET) VISSERY:
2005**

HIERDIE KONSEPBELEID MOET SAAMGELEES WORD MET DIE
KONSEP VAN 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

Dié konsepbeleid vir openbare kommentaar vir die toekenning en bestuur van kommersiële visvangregte in die klein-pelagiesevisserij vir ansjovis en sardyn beursnetvangs word uitgereik deur die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement"). Die konsepbeleid moet saamgelees word met die Konsep van die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die *Algemene Visvangbeleid*"). Belanghebbende en geaffekteerde partye mag teen 4 April 2005 skriftelik kommentaar lewer by die Departement. Kommentaar wat na hierdie datum ingelewer word, sal nie in aanmerking kom nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks Nummer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinsmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verifieerseenheid Landsdown Road 11 Claremont Visserij (Spesifiseer asseblief watter visserij) Beleid Kommentaar
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Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die klein-pelagiesevisserij uiteen te sit. Min van hierdie oorwegings is nuut.. Hulle is in die verlede deur die Departement gebruik by die toekenning van regte. Hierdie beleid vervat sodanige oorwegings, maar sluit ook 'n paar veranderinge en byvoegings in.

Sekere voorgenome bestuursbeleidsrigtings in verband met die toekenning van regte verskyn ook in hierdie beleid. 'n Bestuurshandboek vir klein-pelagiesevisserij sal in die loop van 2006 gefinaliseer word. Hierdie handboek sal in fyn besonderhede toepaslike bestuursmetodologie en –prosedures vir die visbedryf uitstippel.

Die Minister van Omgewingsake en Toerisme is voornemens om die artikel 18-magte om kommersiële visvangregte van die klein-pelagiesevisserij toe te ken, ingevolge artikel 79 van

die Wet op Lewende Mariene Hulpbronne, Wet 18 van 1998 (*“die WLMH”*) aan ’n senior beampte van die Departement te delegeer.

2. Sektorale profiel

Die klein-pelagiesevisserij dateer terug na die 1940's toe ’n vloot in private besit, sardyne en marsbankers met behulp van beursnet vaartuie begin vang het. In 1953 is ’n jaarlikse maksimumbeperking van 270 000 ton vasgestel, maar dit was nooit toegepas nie. Die gevolg was dat vangste dié getal gereeld oorskry het. Teen 1961 is die maksimumbeperking opgehef. In 1962 is meer as 410 000 ton sardyn gevang, maar teen 1966 het die vangste tot 100 000 ton afgeneem. Die vloot het daarna hoofsaaklik ansjovis gevang deur nette met ’n kleiner oogsgrootte te gebruik. In 1987 het ansjovisvangste ’n hoogtepunt van 600 000 ton bereik, maar vangste het daarna afgeneem en in 1996 is daar slegs 40 000 ton gevang. Ansjovis- en sardynvangste het sedertdien toegeneem, met vangste van beide spesies wat, oor die afgelope vyf jaar gemiddeld omtrent 250 000 ton bereik het. Die visserij word tans ingevolge die Operasionele Bestuursprosedure (*“OBP”*) bestuur wat die jaarlikse Totale Toelaatbare Vangste (*“TTV”*) vir ansjovis en sardyne bepaal.

Wat die vangsvolumes betref, bly die klein-pelagiesevisserij die grootste in Suid-Afrika. Wat waarde betref, is dit die tweede grootste. Dié visserij se bestuursprosedure is die ingewikkeldste van die kommersiële visvangbedrywe. Die twee spesies, naamlik sardyn (*Sardinops sagax*) en ansjovis (*Engraulus encrasicolus*) is die hooftikens, met die gepaardgaande byvangstespesies die rooi-oog rondharing (*Etrumeus whiteheadii*) en die Kaapse marsbanker (*Trachurus trachurus capensis*). Sardyn word vir menslike verbruik geblik, terwyl ansjovis en die meeste van die byvangstespesies tot vismeel, visolie en vispasta verwerk word.

Klein-pelagiesevis word naby die kus aangetref, hoofsaaklik langs die wes- en suidkus (ansjovis en sardyn) van die Wes-Kaap en die Oos-Kaapse kus (sardyn).

Die pelagiese visvloot bestaan uit beursnetvaartuie met ’n lengte van tussen 15 tot 30 meter met rompe wat uit hout-, GRP en staal bestaan. Die visserij verskaf werk aan ’n geraamde 7 800 persone. Hiervan is 5 300 persone tans op ’n permanente grondslag en 2 500 op ’n seisoenale grondslag in diens. Die gemiddelde jaarlikse inkomste van die seemanne is R94

000 – die hoogste in die visbedryf. Vyf-en-negentig persent van die werkers in die visbedryf is histories-benadeelde persone. Die waarde van die kusvisserij is tans ongeveer R800 miljoen per jaar. Die markwaarde van die 106 vaartuie wat in dié bedryf werksaam is, is meer as R600 miljoen (’n gemiddelde vaartuig se waarde is meer as R7 miljoen). Die visserij is kapitaal-intensief met regtehouers wat in vaartuie en prosessering- en bemarkingsinfrastruktuur moet belê of toegang moet verkry daartoe deur vangste- en prosesseringsooreenkomste.

3. Die proses van Medium-termyn regtetoekenning

In 1992 het histories-benadeelde persone ongeveer sewe persent van die klein-pelagiesevisserij beheer. Sedert die toetreding van nuwe deelnemers vanaf 1991, het die gaping tussen die grootste en kleinste toewysings gekrimp. Oor dieselfde tydperk was daar ’n tienvoudige toename in swart betrokkeheid en eienaarskap in die visserij (van sewe persent tot 73 persent). In 2001 en 2002 het die Departement 113 medium-termyn (vierjaar) kommersiële klein-pelagiese visvangregte toegeken. Hiervan is:

- 73 persent aan deelnemers in swart besit toegeken;
- 75 persent van die TTV word beheer deur entiteite onder swart beheer;
- 85 persent van regtehouers is klein- of mediumondernemings (KMOs); en
- 50 persent van alle vaartuie in die visserij word besit deur entiteite onder swart beheer.

4. Oorkoopelende sektorale doelwitte

Die oorkoopelende sektorale doelwitte van die toekenning van langtermyn-visvangregte in dié visserij is om:

- die transformasieprofiel in stand te hou en te verbeter
- ’n beleggings- en werkskeppingsvriendelike omgewing te skep;
- beleggings in prosesserings- en bemarkingstrukture en in vaartuie (veral die vervanging van ou vaartuie) aan te moedig;
- waardetoevoeging aan te moedig deur die ontwikkeling van nuwe produkte, veral produkte vir menslike gebruik;

- Voorkombare byvangste te verminder ; en
- ekonomiese lewensvatbaarheid en omgewingsvolhoubaarheid van die vissery te bevorder.

Die Departement sal nie kommersiële regte toeken met die uitsluitlike doel om vis as aas te benut nie.

5. Tydsduur

Met inagneming van -

- die transformasieprofiel van die vissery;
- die feit dat die huidige vloot van beursnetvaartuie oud is en vervang moet word;
- die hoë aantal permanente betrekkings van gehalte wat verskaf word; en
- die behoefte om ekonomiese stabiliteit in stand te hou;

beoog die departement om kommersiële visvangregte toe te ken, vir 'n tydperk van nie langer nie as 12 jaar (1 Januarie 2006 tot 31 Desember 2018). Elke regte-houer sal nietemin met gereelde tussenposes teen voorafbepaalde prestasiekriteria getoets word.

Die Departement het besluit om nie regte vir die maksimumtydperk van 15 jaar toe te ken nie, vanweë kommer wat spruit uit oor-vangste en die onder-rapportering van deur regtehouers. Dié probleme word tans ondersoek.

6. Nuwe Inkomelinge

In die lig van die talrykheid van ansjovis en sardyne wat tans heers, tesame met die inherente wisselvalligheid van voorraad van die klein pelagiese visbron is dit baie moontlik dat die talrykheid van een of albei spesies in die nabye toekoms sal afneem. 'n Aansienlike afname in die TTV en poging in dié vissery word in die vooruitsig gestel. Verder is dit 'n vissery van hoë

volume en lae wins. Dit beteken dat wesentlike langtermyn-toekennings gemaak moet word, ten einde finansiële vatbaarheid te wees.

Gevolgt is die Departement van mening dat daar geen ruimte vir die toetreding van bykomende poging is nie (meer as die huidige 113 regtehouers wat 106 vaartuie benut). Bestaande deelnemers kan nietemin in die langtermyn-regte-toekenningsproses vervang word. Visvangregte sal aan nuwe inkomelinge toegeken word, indien hulle -

- wesentlik met betrekking tot eienaarskap en bestuur getransformeer het;
- nie 'n front vir ander maatskappye is nie;
- onmiddellike toegang tot 'n geskikte vaartuig(-e) het en die kapitaal het om 'n klein pelagiese-onderneming te finansier.

7. Evalueringskriteria

Aansoeke sal ingevolge 'n stel "*uitsluitingskriteria*" ondersoek word en daarna volgens 'n gelaaiete stel "*vergelykende balanseringskriteria*" geëvalueer word. Daarna sal 'n afsnypunt vasgestel word om die suksesvolle aansoekers te kies. Visvangregte sal afsonderlik vir die ansjovis- en sardynvisserie toegestaan word en aansoekers mag aansoek doen om 'n reg in elk van dié visserie. 'n Persentasie van die TTV sal daarna aan elke suksesvolle aansoeker ingevolge 'n stel "*kwantumkriteria*" toegeken word.

7.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid, met betrekking tot die onbehoorlike indiening van die aansoeke en wesenlike tekortkominge, sal die Departement 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, Wet 69 van 1984 en die Maatskappiewet, Wet 61 van 1973 sal in aanmerking kom. Aansoeke van natuurlike persone (d.w.s. individue of eenmansake) en trusts sal nie oorweeg word nie.

- (b) **Wetsnakoming:** Visvangregte vir die klein-pelagiesevisserij sal nie toegeken word nie aan regtehouers, insluitende die direkteure of beherende aandeelhouders wat skuldig bevind is aan 'n misdryf ingevolge die WLMH (sonder opsie om 'n boete te betaal). Regte sal ook nie toegeken word nie aan regtehouer-aansoekers, insluitende die direkteure of beherende aandeelhouders, wie se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH.

Regtehouers, insluitende die direkteure of beherende aandeelhouders, wat ondersoek word vir oortredings, hetsy krimineel of administratief, van die WLMH sal nie kwalifiseer vir regte voor die afhandeling van die betrokke ondersoek nie.

Die Departement vereis dat elke regtehouer 'n heffing betaal op die teikenspesies wat geland word. 'n Aantal regtehouers het óf nog nie heffings betaal nie óf nie die hoeveelheid van die vangste korrek gerapporteer nie, om daardeur onder andere die betaling van die heffings te vermy.

Laasgenoemde regtehouers sal uitgesluit word. Eersgenoemde (nie-betaling van heffings verskuldig aan die Departement) 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 heffings (plus rente) aan die Departement betaal is.

- (c) **Papierkwota's:** Papierkwota's soos uiteengesit in die Algemene Beleid, sal uitgesluit word.
- (d) **Toegang tot geskikte vaartuig:** Aanzoekers sal moet aantoon dat hulle 'n reg van toegang tot 'n geskikte vaartuig beding het (*sien paragraaf 8 onder vir die definisie van 'n geskikte vaartuig*)

7.2 Vergelykende balanseringkriteria:

Aansoekers wat regte hou, asook potensiële nuwe inkomelinge, sal geëvalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal:

(a) Transformasie:

Drie-en sewentig persent van regtehouers in dié vissery is tans in swart besit. Die regtehouers beheer 75 persent van die TTV. Klein - en medium ondernemings beslaan 85 persent van regtehouers.

Die Departement se doelwit by die toeken van langtermyn-visvangregte in die vissery is om die huidige transformasievlakke in stand te hou of te verbeter. Soos deur die Algemene Visserybeleid vasgestel is, sal die aansoekers geëvalueer word volgens -

- Die persentasie swart persone en vroue wat op eienaarsvlakke en uitvoerende bestuursvlakke verteenwoordig is;
- Of werknemers aandeelhouers van die aansoeker is en die voordele wat hulle hieruit kry;
- Regstellende aankope;
- Die aantal swart persone en vroue op verskillende vlakke benede die vlak van uitvoerende bestuur;
- Nakoming van die Wet op Diensbillikheid, Wet 55 van 1988; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die vissery

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

- Beleggings in geskikte vaartuie vir die oes van klein- pelagiesevisse. In hierdie verband sal beleggings in die vorm van aandeelhouding in aanmerking geneem word;
- Beleggings in prosesserings- en bemarkingsinfrastruktuur.

Betreffende nuwe aansoekers sal die Departement oorweging gee aan beleggings gemaak in die vorm van vaartuie, prosesserings- en bemarkingsinfrastruktuur. Verder sal nuwe aansoekers moet aantoon dat hulle die kennis, vaardigheid en vermoë het ten einde aan die klein-pelagiesevisserij deel te neem.

(c) Prestasie

Regtehouers wat wesentlik meer of minder as hul toekennings vang (meer as 10%), sal gepeenaliseer word. Finansiële prestasie sal gemeet word soos aangedui in die Algemene Visserijbeleid.

(d) Byvangste en storting

Die Departement is besorg oor onwettige visvang met gebruik van beursnette wat gerig is op lynvisse (geelstert, witsteenbras en kabeljou) sowel as oor die oorskryding van die voorsorgmaatreël wat die bogrens vir die vang van jong marsbankers bepaal. Die vissery se interaksie met robbe is ook 'n rede tot kommer. Die vang van dolfyne in nette moet vermy word.

Die Departement sal daarna streef om regtehouers te beloon wat maatreëls in werking stel om byvangstespesies te verminder en die inmenging met seesoogdiere te beperk.

Die storting van vis is verbode en regtehouers wat hulle daaraan skuldig maak, mag moontlik nie kwalifiseer vir die toekenning van visvangregte nie. Die alternatief is dat hulle regte ingevolge artikel 28 van die WLMH gekanselleer of opgeskort kan word indien hulle wel visvangregte ontvang het.

(e) Waardetoevoeging

Die Departement mag oorweging gee aan aansoekers se vermoë om waarde toe te voeg tot klein- pelagiesevisse vir plaaslike en internasionale markte. Die Departement sal veral oorweeg of aansoekers op 'n direkte of indirekte wyse belê het, of beleggings gefasiliteer het, in die ontwikkeling van ansjovis- en sardynprodukte vir menslike gebruik.

(e) Plaaslike ekonomiese ontwikkeling

In heelwat van Suid-Afrika se klein kusedorpie is daar 'n behoefte aan belegging en werkskepping. Die Departement sal voorkeur verleen aan daardie aansoekers wat hulle vangste by hawegeriewe buite Kaapstad en Saldanha aan wal bring en prosessee. Groter regtehouers in die klein-pelagiese vissery wat alreeds in Kaapstad en Saldanha belê het, sal egter nie gepenaliseer word nie.

(f) Werksgeleenthede

Die klein-pelagiesevisserie voorsien ongeveer 7 800 werksgeleenthede. Die salarisse van seevarende personeel beloop gemiddeld R94 000 per jaar – die hoogste van al die visserye. Die meeste werkers word op 'n voltydse basis in diens geneem party met mediese- en pensioenvoordele.

Die Departement sal aansoekers verkies wat hul werknemers voorsien van –

- Voltydse indiensneming;
- Mediese- en pensioenvoordele;
- Enige ander indiensnemingsvoordele; en
- Veilige werksomstandighede.

In die geval van bestaande regtehouers, sal werksgeleenthede wat geskep word per ton vis toegeken gedurende die medium-termyn toekenningsproses,

bepaal word en in aanmerking gebring word. Die Departement sal ook die loonverskille tussen die hoogste en laagste besoldigde werknemers in aanmerking neem.

(g) Betaling van visvangheffings

Regtehouers sal gepeenaliseer word as hul heffings vir 'n tydperk langer as 60 dae agterstallig is.

(h) Wetsnakoming

Aansoekers wat versuim om te voldoen aan hulle verpligtings ingevolge die Wet op Vaardigheidsontwikkeling, 97 van 1998 en die Wet op Heffings vir Vaardigheidsontwikkeling, 9 van 1999, en diegene wat geringe oortredings van die WLMH begaan het (d w s oortredings wat nie hulle uitsluiting regverdig nie) sal gepeenaliseer word.

7.3. Kwantumkriteria

Die vissery word gereguleer ooreenkomstig 'n Totale Toelaatbare Vangs (TTV). In 'n onlangse uitspraak het die Hoogste Hof van Appél bevind dat die metodologie wat gebruik word om kwantum vir sardyn en ansjovis toe te ken, hersien moet word. Dié kwantumformule is vir die 2005-visseisoen hersien. Die Departement sal langtermyn klein-pelagiesevisvangregte vir elke spesie afsonderlik toeken en aansoekers kan vir visvangregte in elke vissery aansoek doen. Dit beteken dat daar van 'n regtehouer van klein-pelagiesevisse vereis sal word om die kwantum van sardyn en/of ansjovis waarvoor aansoek gedoen word, te spesifiseer. Die kwantum wat toegeken word vir ansjovis en sardyn sal afsonderlik uitgedruk word as 'n persentasie van die TTV vir daardie spesie.

Vir regtehouers sal die Departement die 2005-toekennings as 'n basis gebruik, die gedeelte van TTV van bestaande regtehouers wat onsuksesvol was, of nie aansoek gedoen het nie, daarby voeg en dan die volgende herverdelingsmeganisme toepas:

- (a) **Transformasie-poel:** Tien persent van die klein-pelagiese TTV vir elke spesie sal herversprei word, ooreenkomstig punte vir transformasie;
- (b) **Ondernemings van klein en medium formaat:** Tien persent van die klein-pelagiesevisserij se TTV vir elke spesie sal opsygesit word vir suksesvolle aansoekers wat ondernemings van klein of medium formaat is. Klein of medium ondernemings word gedefinieer as dié met 'n jaarlikse omset van nie meer as R5miljoen vir die medium-formaat, en R3 miljoen vir 'n klein-formaat onderneming nie;
- (c) **Vaartuigeienaars:** Vyftien persent van die klein-pelagiesevisserij se TTV vir elke spesie sal opsygesit word vir herverdeling aan ondernemings van klein of medium-formaat wat in hul eie vaartuie belê het (100 persent) en meer as 50 persent van hul eie klein-pelagiesevaartuie voor 30 Januarie 2005 afbetaal het;
- (d) **Waardetoevoeging:** Vyftien persent van die klein-pelagiesevisserij se TTV vir elke spesie sal opsygesit word vir herverdeling aan dié suksesvolle aansoekers wat in die ontwikkeling van produkte vir menslike gebruik van TTV, op 'n direkte of indirekte wyse, belê het of dit voortgehelp het. Die punte van suksesvolle aansoekers vir waardetoevoeging sal gebruik word om die TTV te herverdeel.

Enige nuwe aansoeker sal 'n kwantum toegeken word wat gelykstaande is aan die laagste kwantum van 'n suksesvolle regtehouer. In die geval waar die laagste getal nul was (vir of sardyn of ansjovis), sal die Departement dan die tweede laagste hoeveelheid toeken.

8. Geskikte vaartuie

In die klein-pelagiesevisserij is 'n geskikte vaartuig 'n vaartuig:

- met 'n maksimum SAMVV-gesertifiseerde lengte van ongeveer 30 m;

- met 'n werkende vaartuigmoniteringstelsel;
- wat vir beursnetvisserij toegerus is; en
- wat nie aangehou word of ingevolge die WLMH gekonfiskeer is nie.

9. Multi-sektorale betrokkenheid

Regtehouers in die klein-pelagiesevisserij word nie daarvan weerhou om regte in enige visserij in die Groep A- en Groep B visserij te hou nie. Regtehouers in die klein-pelagiesevisserij (met inbegrip van beherende aandeelhouers en lede van hul uitvoerende bestuurspan) sal nie toegelaat word om kommersiële visvangregte in Groep C- en Groep D visserij te hou nie.

10. Aansoekgelde en heffings

Die aansoekgeld vir die klein-pelagiesevisserij sal bepaal word met inagneming van:

- Die koste van die regtoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings. In hierdie verband sal die koste aangegaan gedurende die mediumtermyn proses as 'n riglyn dien; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met aanvang van 1 Januarie 2006 betaalbaar is, sal hersien word na oorlegpleging met geaffekteerde en belanghebbende partye.

11. Bestuursmaatreëls

Die bestuursmaatreëls soos hieronder uiteengesit verwys na sommige van die Departement se hoofvoornemens vir die bestuur van hierdie visserij, nadat regte toegeken is.

11.1 Ekosisteembenadering tot bestuur van vissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die vissery (EBV). 'n Ekosisteembenadering tot die bestuur van die vissery is 'n holistiese en geïntegreerde beleid wat erkenning gee daaraan dat visvang en verwante aktiwiteite die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die klein-pelagiesevisserij probeer nie om 'n beleidsverklaring oor EBV in die vissery te voorsien nie. Die EBV in die klein-pelagiesevisserij sal verder uiteengesit word in die bestuurshandboek vir die Klein-pelagiesevisserij. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserye.

11.2 Konsolidering van deelnemers

Na die toekenning van kommersiële visvangregte vir 12 jaar in dié vissery sal die Departement die konsolidasie van aktiewe regtehouers in die vissery fasiliteer, veral waar:

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

11.3 Rooi-oog haring-vissery

Alhoewel die klein-pelagiesevisserij gerig is op die benutting van ansjovis en sardine, word rooi-oog harings ook geteiken, veral vroeg in die jaar. Daar is bewyse dat rooi-oog haring substansieel onderbenut word. Die Departement wil verdere inkomste en werksgeleenthede skep deur beter benutting van hierdie spesies aan te moedig. Om dit te bereik, ondersoek die Departement die moontlikheid om 'n beheerde vissery vir hierdie spesie tot stand te bring. Die Departement behou die reg voor om sodanige vissery te eniger tyd in die toekoms en na oorlegpleging met regtehouers en ander belanghebbendes, in te stel.

11.4 Vaartuie en visvangpoging

Daar is tans 106 klein-pelagiesevisvangvaartuie wat in Suid-Afrikaanse waters werkzaam is. Omdat baie regtehouers nie die eienaars is van die vaartuie waarmee hulle visvang nie en omdat sommige vaartuie vervang moet word, besef die Departement dat baie regtehouers, na die verkryging van toekenning van langtermyn-visvangregte, nuwe en verdere vaartuie sal wil inbring. Die Departement beskou die huidige pogingsvlakke in die vissery as optimaal. Regtehouers sal nie toegelaat word om vaartuie te gebruik wat in staat is om 'n vangspoging te ontplooi wat veel meer is as hulle toekenning nie. Verder mag die Departement met die Bedryfsliggaam van die Vissery konsulteer in verband met aansoeke om verdere of nuwe vaartuie in die sektor te benut.

11.5 Monopolieë

Hoewel die Departement konsolidering van regtehouers aanmoedig in die vissery, is die Departement gekant teen monopolieë wat tot nadeel van die kleiner regtehouers kan werk.

11.6 Instelling van 'n TOV

Die versuim om vangste korrekte te rapporteer, het 'n aansienlike administratiewe en finansiële las op die Departement geplaas en dit is ook 'n risiko vir die behoorlike bestuur van die hulpbron. Die Departement oorweeg dit om 'n totale ontplooië vangspoging (TOV) vir hierdie bedryf in te stel en sal later met die regtehouers oorlegpleeg oor hierdie bestuursprosedure.

12. Meet van prestasie

Die Departement sal 'n aantal formele prestasiemaatstawwe instel vir die tydsduur van die kommersiële visvangregte. Dit word in die vooruitsig gestel dat die eerste prestasiemeting na twee jaar sal plaasvind en daarna elke vierde jaar.

Alhoewel die Departement die presiese kriteria sal finaliseer waaraan die regtehouers na die toekenning van kommersiële visvangregte gemeet sal word, 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 uitwerking van beursnetvisserij asook die mitigasie van byvangste;
- nakoming van toepaslike wette en regulasies.

13. Waarnemersprogram

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

14. Permitvoorwaardes

Permitvoorwaardes vir hierdie visserij sal jaarliks uitgereik word. Die permitvoorwaardes op hierdie visserij vir die 2005-seisoen word as **Bylae A** aangeheg. Belanghebbende en geaffekteerde partye word uitgenooi om oor hierdie permitvoorwaardes kommentaar te lewer.

ANNEXURE N

DRAFT



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

**DRAFT POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE SOUTH COAST ROCK
LOBSTER FISHERY: 2005**

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

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1. Introduction

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

By Fax: Fax Number: (021) 670-1782 Attention: The Deputy Director-General South Coast Rock Lobster Policy Comments	By Mail: Attention: Mr Horst Kleinschmidt The Deputy Director-General The Department of Environmental Affairs and Tourism P.O Box 44963 Claremont 7735 South Coast Rock Lobster Policy Comments	By E-mail: RVU@deloitte.co.za Attention: The Deputy Director-General South Coast Rock Lobster Policy Comments By Hand Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont South Coast Rock Lobster Policy Comments
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The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial south coast rock lobster fishing rights. Many of these considerations are not new. They have been applied by the Department when allocating rights in the past. This policy documents these considerations, but includes a few changes and additions.

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

The Minister of Environmental Affairs and Tourism intends to delegate the section 18 power to allocate commercial south coast rock lobster fishing rights in terms section 79 of the Marine Living Resources Act 18 of 1998 (*"the MLRA"*) to a senior official of the Department.

2. Biological and resource dynamics

South Coast rock lobster (*Palinurus gilchristi*) is endemic to the continental shelf of southern South Africa, occurring on rocky substrata at depths of 50 to 200 metres. The species is found in commercial quantities at two locations: offshore on the Agulhas Bank in an area roughly 200 kilometres from the coast, and closer inshore (two to 50 kilometres from the coast) between Mossel Bay and East London. South coast rock lobster is a cold-water species that grows slowly and is long-lived. The inshore area between Danger Point and Cape Agulhas is an important settlement area for juveniles, which migrate to adult habitats on the Agulhas Bank and in the inshore area between Mossel Bay and Port Elizabeth. Rock lobsters that occur between Port Alfred and East London are generally smaller, slower-growing and do not migrate.

3. Sector profile

The South Coast rock lobster fishery is a deep water long line trap fishery that began in 1974. At that stage, both South African and foreign vessels exploited the deep water resource. However, in 1976 South Africa declared its 200 mile Exclusive Economic Zone and effectively halted foreign participation in the fishery. A total of 26 South African vessels remained in the fishery. This number dropped to 15 in 1981 after years of unsustainable and unregulated fishing led to the resource's collapse. In 1975, 2 092 tons of south coast rock lobster were harvested; by 1981 this had dropped to a mere 176 tons.

The fishery was first regulated by a total allowable catch ("TAC") in 1984. The TAC was set at 450 tons (tail mass). Ten years later, research indicated that the resource was still in decline. The management strategy for this fishery was fundamentally changed in 2000. A combined TAC and total applied effort ("TAE") strategy was introduced, which limited the number of days that a SCRL vessel may stay at sea. The "sea days" limit is calculated according to the portion of the TAC that is caught by a specific vessel, taking into account that vessel's fishing capacity.

Between 1989 and 2001, the SCRL resource had declined by 65 percent, largely due to overfishing by Hout Bay Fishing Industries (Pty) Ltd.

The Department's management plan for the SCRL fishery has borne fruit. In the 2001/2002 fishing season, the SCRL TAC was set at 340 tons, combined with a TAE of 1 922 sea days. Three years later, the TAC increased to 382 tons, combined with a TAE of 2 089 sea days.

South coast rock lobster catches are off-loaded at Cape Town and Port Elizabeth harbours. The catch is generally frozen at sea and graded and repacked at shore-based facilities. Almost the entire catch is exported, predominantly to the USA.

The SCRL industry employs about 400 people. Of these, 285 are sea-going personnel who are employed on nine vessels. Ninety seven percent of employees are historically disadvantaged persons. On average, workers earn R50 000 per annum in salaries, making this industry one of the best paying in the fishing industry. The value of the catch is approximately R100 million per annum. The market value of vessels operating in the fishery is approximately R70 million.

Vessels are rigged for long-line trap-fishing. Barrel-shaped plastic traps are set for periods of 24 hours to several days. Each vessel typically hauls and resets approximately 2 000 traps per day in sets of 100 to 200 traps. Long-line trap-fishing is a labour-intensive fishing method. Crews consist of up to 35 persons. The vessels in this fishery are large, offshore vessels ranging in length between 30 and 60 metres. They fish for between 180 to 300 days per year.

The south coast rock lobster fishery is capital intensive, requiring large vessels with insured values of between R4 million and R10 million, a substantial number of crew, access to foreign markets and funds for overhead costs such as fuel, vessel maintenance and salaries.

4. The medium-term rights allocation process

Medium-term commercial fishing rights were allocated to 18 right-holders. Right-holders typically hold between two and 10 percent of the TAC, with the exception of one company that holds 41.1 percent. Nine vessels are used to fish the entire TAC.

Of the 18 right-holders:

- 72 percent are black owned entities;
- 47 percent are black managed;

- 65 percent are small- and medium-sized enterprises ("SMEs").

5. Over-arching sectoral objectives

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

- Maintain or improve the transformation profile of the SCRL fishery;
- Create an environment that attracts investment and stimulate job creation;
- Support the economic viability of the fishery
- Ensure the environmental sustainability of the fishery; and
- Re-distribute the TAC among the rights holders in terms of transformation criteria and criteria aimed at rewarding SMEs that performed in accordance with their permit conditions.

6. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the number of quality full time jobs provided (and to encourage the conversion of part-time employment into permanent jobs);
- the need to maintain the stability in the fishery; and
- the fact that, according to scientific data, the SCRL resource is recovering,

the Department will allocate commercial rights for a period of 15 years (01 January 2006 to 31 December 2020). It is the intention of the Department that every right-holder will be tested at regular intervals against predetermined performance criteria (*see paragraph 13 below*).

7. New entrants

SCRL stocks are currently managed in terms of a conservative recovery strategy. By 1981, the stock had collapsed and it was subjected to years of over fishing between the late 1980's and

2001. In 1992 the average allocation was 75 tons; 14 tons being the smallest individual allocation. By 2002, the average allocation dropped to a mere 17 tons; with seven tons the smallest individual allocation.

The Department therefore considers the current 18 right-holders and eight vessels to be the maximum that the fishery can sustain at this point. The fishery also has acceptable levels of transformation and substantial numbers of small- and medium-sized enterprises. Although the Department does not exclude the possibility of replacing existing right-holders, it is highly unlikely that any new entrants will be admitted.

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 TAC will be allocated to each successful applicant in terms of a set of "*quantum criteria*".

8.1 Exclusionary criteria

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

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a SCRL fishing right. Right-holder applicants, including the directors or controlling shareholders, that

have had any fishing right cancelled or revoked in terms of the Marine Living Resources Act will also not be allocated a SCRL fishing right.

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

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

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

8.2 Comparative balancing criteria

Right-holder applicants and 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:

(a) Transformation:

Currently, 72 percent of right-holders in the SCRL fishery are black owned. These right-holders collectively control 77 percent of the TAC. Furthermore, SMEs make up 65 percent of right-holders and 78 percent of the vessels used in this fishery are black owned.

The Department's objective during the process of allocating long-term fishing rights in this fishery is to maintain or improve on the present levels of transformation. As stipulated in the General Policy, applicants will be assessed and scored on –

- The percentage black and women representation at ownership and executive management levels;
- Whether employees are shareholders in the applicant and the extent of their benefits;
- Affirmative procurement;
- The representivity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

(b) Investment in the fishery

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

- Investments in vessels suitable for the harvesting of SCRL. In this regard, investment in the form of shareholding will be considered.
- Investments in marketing infrastructure.

(c) Jobs

The SCRL fishery provides about 400 jobs. Average salaries are R50 000 per year for sea-going employees.

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

- Full-time employment;
- Medical aid and pension;

- Any other employment benefits; and
- Safe working conditions.

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

(d) Performance

Right-holder applicants that significantly over and under-caught (more than 10 percent) will be penalised. Financial performance will be measured, as indicated in the General Policy.

(e) Payment of Fish levies

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

(f) Compliance

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

8.3 Quantum criteria

In respect of right-holder applicants, the Department will use as a base the quantum allocated to right-holders during the 2005 season. To this will be added a proportional division of the TAC from any existing participants that were unsuccessful or that did not apply for a long-term right. The following quantum pools will be applied to redistribute the TAC:

(a) Transformation pool:

Fifteen percent of the SCRL TAC will be set aside for affirming those successful applicants that are blackowned and black-managed. All successful applicants will be allocated a percentage of the TAC set aside for transformation, depending on the scores attained for transformation.

(b) Small- and medium-sized enterprise pool

Fifteen percent of the SCRL TAC will be set aside to affirm small- and medium-sized applicants that performed over the medium-term right allocation period. Small- and medium-sized applicants are, *inter alia*, those entities whose annual turnover did not exceed R5 million for medium size operations and R3 million for small operations.

9. Suitable vessels

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

- has a minimum SAMSA certified length of not less than 30 metres;
- is fitted with a functioning vessel monitoring system;
- is capable of deploying lines of approximately two miles long and 200 traps;
- is capable of storing at least 2 000 traps;
- is capable of carrying the necessary winches; and
- is capable of carrying approximately 30 or more crew members.

10. Multi-sector involvement

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

11. Application fees and levies

Marine resources are renewable resources and the "user pays" principle will be applied. Application fees for the SCRL fishery will be set having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and review applications. In this regard the costs incurred during the medium-term process will be used as a guide; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 01 January 2006 will be revised, after consultation with affected and interested parties.

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 landbased activities impact on the broader marine environment. This part of the SCRL fishing policy does not attempt to provide a policy statement on EAF in the SCRL fishery. The EAF in the SCRL fishery will be detailed further in the Fishery Management Manual for the SCRL 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 the 15-year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery, 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 12.4 below*).

12.3 Vessels and Fishing Effort

There are presently eight SCRL fishing vessels that operate in South African waters. As some right-holders do not own the vessels they use and because vessels may require replacement, the Department recognises that many right-holders will seek to introduce further or new vessels after the allocation of long-term fishing rights. 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 that is 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.

12.4 Monopolisation

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

The Department will not at this stage determine a maximum threshold of the TAC that any one right-holder may hold or control, but will monitor whether any larger right-holder acts in a manner contrary to fair competition practices.

13. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the 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 longline trap fishing;
- compliance with applicable laws and regulations.

14. Observer programme

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

15. Permit conditions

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

ANNEXURE O

KONSEP



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

**BELEID VIR DIE TOEKENNING EN BESTUUR VAN KOMMERSIËLE
VISVANGREGTE IN DIE SUIDKUSKREEF VISSERY: 2005**

**HIERDIE KONSEPBELEID MOET SAAMGELEES WORD MET DIE
KONSEP VAN 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 is 'n konsepbeleid vir openbare kommentaar oor die toekenning en bestuur van kommersiële visvangregte in die Suidkuskreefvisserij soos uitgereik deur die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement"). Die konsepbeleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visvangbeleid"). Belanghebbende en geaffekteerde partye mag skriftelik kommentaar lewer by die Departement teen 4 April 2005. Kommentaar wat na hierdie datum ingelewer word, sal nie in aanmerking kom nie. Kommentaar moet as volg ingedien word:

Per Faks: Faks Nommer: (021) 670-1782 Aandag: Die Adjunk Direkteur-Generaal Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per Pos: Aandag: Mr Horst Kleinschmidt Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Postbus 44963 Claremont 7735 Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar	Per E-pos: RVU@deloitte.co.za Aandag: Die Adjunk Direkteur-Generaal Die Departement van Omgewingsake en Toerisme Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar Per Hand Aandag: Die Adjunk Direkteur-Generaal Die Regte Verleëringseenheid Landsdown Road 11 Claremont Vissery (Spesifiseer asseblief watter vissery) Beleid Kommentaar
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Die doel van hierdie beleid is om die oorwegings van toepassing op die toekenning van langtermyn kommersiële visvangregte vir die suidkuskreefvisserij uiteen te sit. Min van hierdie oorwegings is nuut.. Hulle is in die verlede deur die Departement gebruik by die toekenning van regte. Hierdie beleid verteenwoordig weerspieël tewens sodanige oorwegings, maar sluit ook 'n paar veranderinge en byvoegings in.

Sekere voorgenome bestuursbeleidsrigtings verskyn ook in hierdie beleid. 'n Bestuurshandeling vir die suidkuskreefvisserij sal in die loop van 2006 gefinaliseer word. Hierdie handboek sal toepaslike bestuursmetodes en -prosedures vir die vissery in fyn besonderhede uitstippel.

Die Minister van Omgewingsake en Toerisme is van voornemens om artikel 18-magte om visvangregte in die suidkuskreefvisserij toe te ken, ingevolge artikel 79 van die Wet op

Lewende Mariene Hulpbronne, Wet 18 van 1998 ("die WLMH") aan 'n senior beampte van die Departement te delegeer.

2. Biologiese en hulpbrondinamika

Suidkuskreef ("SKK") (*Palinurus gilchristi*) is endemies aan die vastelandsplat van Suider-Afrika, en kom voor op rotsagtige substrata in dieptes van 50 tot 200 meter. Die spesie word in kommersieel lewensvatbare hoeveelhede op twee plekke gevind: op die Agulhasbank in 'n gebied ongeveer 200 kilometer vanaf die kus en, nader aan die kus, (2 tot 50 kilometer van die kus) tussen Mosselbaai en Oos-Londen. Suidkuskreef is 'n koue water spesie wat stadig groei en lank lewe. Die kusgebied tussen Danger Point en Kaap Agulhas is 'n belangrike nedersettingsgebied vir jongelinge, wat daarna na volwasse habitate migreer op die Agulhasbank en in die kusgebied tussen Mosselbaai en Port-Elizabeth. Seekrewe wat tussen Port Alfred en Oos-Londen voorkom, is gewoonlik kleiner en migreer nie.

3. Sektorale profiel

Die suidkuskreef vissery is 'n diepsee-langlynvalstrik vissery wat in 1974 begin het. In daardie stadium het Suid-Afrikaanse sowel as buitelandse vaartuie hierdie diepsee hulpbron ontgin. In 1976 het Suid-Afrika egter sy 200 myl Eksklusiewe Ekonomiese Sone (EES) aangekondig en buitelandse deelname aan hierdie vissery effektief beëindig. 'n Totaal van 26 Suid-Afrikaanse vaartuie het vir die vissery behoue gebly. Hierdie getal het in 1981 tot 15 verminder nadat jare se nie-volhoubare en ongeregleerde ontginning die hulpbron se ineensorting teweeggebring het. In 1975 is 2 092 ton suidkuskreef ge-oes; teen 1981 het dit gedaal tot 'n skamele 176 ton.

Hierdie vissery is vir die eerste keer geregleer deur die instelling van 'n Totale Toelaatbare Vangs ("TTV") in 1984. Die TTV was vasgestel op 450 ton (stertmassa). Tien jaar later het navorsing getoon dat die hulpbron steeds besig was om te kwyn. Die bestuurstrategie vir hierdie vissery is in 2000 fundamenteel verander. 'n Gekombineerde TTV en Totale Ontplooid Vangspoging (TOV) was ingestel wat 'n beperking geplaas het op die aantal dae wat 'n SKK-vaartuig op see kon bly. Die "seedae"-beperking word bereken volgens die kwantum van die

TTV wat deur 'n spesifieke vaartuig gevang mag word, met inagneming van die vaartuig se visvangvermoë. Tussen 1989 en 2001 het die SKK-hulpbron met 65 persent afgeneem, grootliks as gevolg van oorvangste deur Hout Bay Fishing Industries (Edms) Bpk.

Die Departement se bestuursplan vir die SKK vissery het vrugte afgewerp en gedurende die 2001/2002 visvangseisoen was SSK se TTV vasgestel op 340 ton, gekombineerd met 'n TOV van 1 922 seedae. Drie jaar later het die TTV toegeneem tot 382 ton, gekombineerd met 'n TOV van 2089 seedae.

Suidkuskreefvangste word ontskeep by die Kaapstad- en Port-Elizabeth hawens. Die vangs word gewoonlik ter see gevries en gegraadeer en by kus-gebaseerde geriewe herverpak. Feitelik die totale vangs word uitgevoer, hoofsaaklik na die VSA.

Die SKK-bedryf bied werkseleenthede vir ongeveer 400 mense. Van diegene is 285 seevarende personeel wat op nege vaartuie werksaam is. Sewe-en-neëntig persent van die werknemers is voorheen benadeeldes. Die werkers se salarisse beloop gemiddeld R50 000 per jaar, wat dit een van die hoogs-betaalde visserye maak. Die waarde van die vangste beloop ongeveer R100 miljoen per jaar. Die markwaarde van vaartuie wat in die vissery werksaam is, beloop ongeveer R70 miljoen.

Die vaartuie is toegerus vir langlynvalstrik-visvang. Plastiese, vaatjievormige valstrikke word gestel vir periodes wat strek vanaf 24 uur tot 'n paar dae. Elke vaartuig trek en stel ongeveer 2 000 valstrikke per dag in stelle van 100 na 200 valstrikke. Langlynvalstrik-visvang is 'n arbeid-intensiewe visvangmetode. Bemanning bestaan uit tot 35 persone. Die vaartuie in die vissery is groot, afluandige vaartuie wat in lengte wissel vanaf 30 tot 60 meter. Hulle spandeer tussen 180 en 300 dae per jaar op see.

Die suidkuskreef vissery is kapitaal-intensief, wat afhang van die gebruik van groot vaartuie met versekerde waardes van tussen R4 miljoen en R10 miljoen. 'n Aansienlike aantal bemanningslede, toegang tot oorsese markte en fondse vir oorhoofse kostes soos brandstof, vaartuigonderhoud en salarisse is verder nodig.

4. Medium-termyn regtetoekenning

Medium-termyn kommersiële visvangregte is aan 18 regtehouers toegeken. Regtehouers hou tipies tussen twee en 10 persent van die TTV behalwe vir een maatskappy wat 41.1 persent hou. Nege vaartuie word gebruik om die TTV te ontgin.

Van die 18 regte-houers is:

- 72 persent entiteite in swart besit;
- 47 persent onder swart beheer;
- 65 persent ondernemings van klein of medium grote ondernemings("KMOs").

5. Oorkoepelende sektorale doelwitte

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

- die transformasieprofiel in die SKK-vissery in stand te hou of te verbeter
- 'n beleggings- en werkskeppingsvriendelike omgewing te skep
- ekonomiese lewensvatbaarheid van die vissery te ondersteun ;
- die omgewingsvolhoubaarheid van die vissery te verseker; en
- die TTV te herverdeel onder die regtehouers ingevolge transformasiekriteria, en kriteria gerig om KMO's te beloon wat volgens hul permitvoorwaardes presteer het.

6. Tydsduur

Met inagneming van -

- die transformasieprofiel van die vissery ;

- die aantal permanente betrekkings van hoë gehalte wat verskaf word (en om die oorskakeling van deeltydse na voltydse indiensneming aan te moedig);
- die behoefte om ekonomiese stabiliteit in die vissery in stand te hou;
- die feit dat die SKK vissery volgens wetenskaplike data, besig is om te herstel,

sal die Departement kommersiële visvangregte toeken vir 'n tydperk van 15 jaar (1 Januarie 2006 tot 31 Desember 2020). Elke regtehouer sal nietemin met gereelde tussenposes teen voorafbepaalde prestasiekriteria getoets word (*sien paragraaf 13 hieronder*).

7. Nuwe Inkomelinge

SKK getalle word tans ingevolge 'n konserwatiewe herstelstrategie bestuur. Teen 1981 het die SKK se getalle aansienlik gedaal, maar die bron is steeds onderwerp aan jare se verdere oortogting tussen die laat 1980's en 2001. In 1992 was die gemiddelde toekenning 75 ton; met 14 ton as die kleinste individuele toekenning. Teen 2002, het die gemiddelde geval tot 'n skamele 17 ton; met 7 ton as die kleinste individuele toekenning.

Die Departement beskou dus die huidige 18 regtehouers en agt vaartuie as die maksimum vangspoging wat hierdie vissery tans kan ondersteun. Die vissery het ook aanvaarbare vlakke van transformasie en 'n aansienlike aantal klein- en medium groote ondernemings (KMO's). Hoewel die Departement nie die vervanging van bestaande regtehouers uitsluit nie, is dit hoogs onwaarskynlik dat enige nuwe inkomelinge toegelaat sal word.

8. Evalueringskriteria

Aansoeke sal ingevolge 'n stel "*uitsluitingskriteria*" ondersoek word en daarna volgens 'n gelaaide stel "*vergelykende balanseringskriteria*" evalueer word. Daarna sal 'n afsnypunt of rang vasgestel word ten einde die suksesvolle aansoekers te kies. 'n Deel van die TTV sal daarna aan elke suksesvolle aansoeker ingevolge 'n stel "*kwantumkriteria*" toegeken word.

8.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid, met betrekking tot die onbehoorlike indiening van die aansoeke en wesenlike tekortkominge, sal die Departement 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, Wet 69 van 1984, en die Maatskappyywet, Wet 61 van 1973, sal in aanmerking kom. Aansoeke van natuurlike persone (d.w.s. individue of eenmansake) en trusts sal nie oorweeg word nie.
- (b) **Wetsnakoming:** Visvangregte vir die SKK vissery sal nie toegeken word aan regtehouers, insluitende die direkteure of beherende aandeelhouders wat skuldig bevind is aan 'n misdryf ingevolge die WLMH (sonder opsie om 'n boete te betaal) nie. Regte sal ook nie toegeken word aan bestaande regtehouer aansoekers, insluitende die direkteure of beherende aandeelhouders wie se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH nie.

Besluite sal voorbehou word op aansoeke van regtehouers, insluitende die direkteure of beherende aandeelhouders, wat ondersoek word vir oortredings, hetsy krimineel of administratief, van die WLMH. Regte sal slegs toegeken word nadat die ondersoek afgehandel is.

Die Departement verwag dat elke regte-houer 'n heffing betaal op die teikenspesies wat aan land gebring word. 'n Aantal regtehouers het óf nog nie heffings betaal nie óf nie die hoeveelheid van die vangste korrek rapporteer nie, om daardeur onder andere die betaling van die heffings te vermy. Laasgenoemde sal uitgesluit word. Eersgenoemde (nie-betaling van heffings verskuldig aan die Departement) 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, alvorens die uitstaande heffings (plus rente) aan die Departement betaal is nie.

- (c) **Papierkwota's:** Papierkwota's soos uiteengesit 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 9 hier onder*)

8.2 **Vergelykende Balanseringskriteria**

Bestaande regtehouer aansoekers, asook potensiële nuwe inkomelinge, sal gëevalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word, ten einde die sterkte van elke aansoek te bepaal.

(a) **Transformasie:**

Twee-en-sewentig persent van regtehouers in SKK visserij is tans in swart besit. Hierdie regtehouers beheer gesamentlik 77 persent van die TTV. Voorts bestaan 65 persent van regtehouers uit klein- en medium-grote ondernemings en 78 persent van die vaartuie wat in hierdie bedryf gebruik word, is in swart besit.

Die Departement se doelwit met die toekenning van langtermyn-visvangregte in hierdie visserij is om die huidige transformasievakke in stand te hou, of te verbeter. Soos deur die Algemene Beleid vasgestel is, sal die aansoekers evalueer word volgens -

- Die persentasie swart persone en vroue wat op eienaarsvlakke en uitvoerende bestuursvlakke verteenwoordig word;
- Of werknemers aandeelhouders van die aansoeker is, en die voordele wat hulle hieruit kry;
- Regstellende aankope;

- Die aantal swart persone en vroue op verskillende vlakke benede die vlak van uitvoerende bestuur;
- Nakoming van die Wet op Diensbillikheid, Wet 55 van 1988; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die vissery

Met betrekking tot bestaande regtehouers aansoekers, sal die Departement die volgende spesifiek in aanmerking neem:

- Beleggings in geskikte vaartuie vir die oes van SKK. In hierdie verband sal beleggings in die vorm van aandeelhouing in aanmerking geneem word; en
- Beleggings in die bemarkings-infrastruktuur.

(c) Werksgeleenthede

Die SKK vissery voorsien tans sowat 400 werksgeleenthede. Gemiddelde salarisse is R50 000 per jaar vir seevarende werknemers.

Die Departement sal aansoekers beloon wat hul werknemers voorsien van –

- Voltydse indiensneming;
- Mediese- en pensioenvoordele;
- Enige ander indiensnemingsvoordele; en
- Veilige werksomstandighede.

In die geval van bestaande regtehouers aansoekers, sal werksgeleenthede geskep per ton vis toegeken gedurende die medium-termyn toekenningsproses, in ag geneem word. Die Departement sal ook die loonverskille tussen die hoogste en laagste besoldigde werknemers in aanmerking neem.

(d) Prestasie

Regtehouers wat aansienlik meer of minder vang (wat 10% oorskry), sal gepeenaliseer word. Finansiële prestasie sal gemeet word soos aangedui in die Algemene Beleid.

(e) Betaling van visvangheffings

Regtehouers sal gepeenaliseer word as hul heffings vir 'n tydperk van langer as 60 dae agterstallig is.

(f) Wetsnakoming

Aanzoekers wat versuim om te voldoen aan hulle verpligtings ingevolge die Wet op Vaardigheidsontwikkeling, 97 van 1998 en die Wet op Heffing van Vaardigheidsontwikkeling, 9 van 1999, en diegene wat geringe oortredings van die WLMH begaan het (d.w.s. oortredings wat nie hulle uitsluiting regverdig nie) sal gepeenaliseer word.

8.3 Kwantumkriteria

Betreffende bestaande regtehouer aanzoekers, sal die Departement die 2005 kwantumtoekennings aan regtehouers as 'n basis gebruik en die proporsionele verdeling van TTV vir bestaande regtehouers wat onsuksesvol was, of nie aansoek gedoen het nie, byvoeg. Die volgende kwantumpoele sal toegepas word om die TTV te herversprei:

(a) Transformasie-poel:

Vyftien persent van die SKK se TTV, sal opsygesit word om suksesvolle aanzoekers te ondersteun wat ondernemings is in swart besit en onder swart bestuur. Daar sal waarskynlik aan alle suksesvolle aanzoekers 'n persentasie van die TTV toegeken word vir transformasie, maar die omvang sal afhang van punte behaal vir transformasie.

(b) Klein- en mediumgrootte ondernemingspoel

Vyftien persent van die SKK se TTV sal opsygesit word vir die ondersteuning van klein of medium grootte ondernemings wat presteer het tydens mediumtermynregte periode. Klein of mediumgrootte ondernemings word gedefinieer as dié met 'n jaarlikse omset van nie meer as R5 miljoen vir die medium-formaat, en R3 miljoen vir die klein-formaat onderneming nie

9. Geskikte vaartuie

In die SKK vissery is 'n geskikte vaartuig, 'n vaartuig:

- met 'n minimum SAMVV-gesertifiseerde lengte van nie minder nie as 30 meter;
- toegerus met 'n werkende vaartuigmoniteringstelsel;
- wat daartoe in staat is om lyne te ontplooi van ongeveer twee myl lank en 200 valstrikke;
- wat daartoe in staat is om ten minste 2 000 valstrikke te huisves;
- wat daartoe in staat is om die nodige hystoestelle te dra; en
- wat daartoe in staat is om ongeveer 30 of meer bemanningslede te dra.

10. Multi-sektorale betrokkenheid

Regtehouers in die SKK vissery word nie daarvan weerhou om regte in enige vissery in die Groep A en Groep B visserye te hou nie. Regtehouers in die SKK vissery (met inbegrip van beherende aandeelhouers en lede van hul uitvoerende bestuursplan) sal nie toegelaat word om kommersiële visvangregte in Groep C en Groep D visserye te hou nie.

11. Aansoekgelde en heffings

Mariene hulpbronne is hernubaar en die beginsel van "gebruiker betaal" sal toegepas word.

Die aansoekgeld vir die SKK vissery sal bepaal word met inagneming van:

- Die koste van die regtetoekenningsproses, met inbegrip van konsultasie, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings. In hierdie verband sal die koste aangegaan gedurende die mediumtermyn proses as 'n riglyn dien; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat vanaf 1 Januarie 2006 betaalbaar is, sal hersien word na oorlegpleging met geaffekteerde en belanghebbende partye.

12. Bestuursmaatreëls

Die bestuursmaatreëls soos hieronder uiteengesit verwys na sommige van die Departement se hoofdoelstellings vir die bestuur van hierdie vissery, nadat regte toegeken is.

12.1 Ekosisteembenadering tot bestuur van visvangbedryf

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteembenadering tot die vissery (EBV). 'n Ekosisteembenadering tot die bestuur van die vissery is 'n holistiese en geïntegreerde beleid wat erkenning gee daaraan dat visvang en verwante aktiwiteite die breë mariene omgewing kan beïnvloed. Hierdie deel van die beleid vir die SKK vissery poog nie om 'n beleidsverklaring oor EBV in die vissery te voorsien nie. Die EBV in die SKK vissery sal verder uiteengesit word in die bestuurshandleiding vir die SKK vissery. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visvangbedryf.

12.2 Konsolidering van deelnemers

Na die toekenning van kommersiële visvangregte vir 15 jaar in hierdie vissery sal die Departement die konsolidasie van aktiewe regtehouers in die vissery fasiliteer, veral waar:

- Regtehouers dieselfde aandeelhouers, kantore of bestuurspan deel, of
- Kleiner regtehouers hul sakebedrywighede wil konsolideer.

Konsolidering van regtehouers is egter onderhewig aan die Departement se benadering tot monopolieë (*sien paragraaf 12.4 hieronder*).

12.3 Vaartuie en vangspoging

Daar is tans agt SKK vaartuie wat in Suid-Afrikaanse waters werksaam is. Omdat baie regtehouers nie eienaars is van die vaartuie waarmee hulle visvang nie, en omdat sommige vaartuie vervang moet word, besef die Departement dat baie regtehouers, na die verkryging van langtermyn-visvangregte, nuwe vaartuie sal wil inbring. Die Departement sal noukeurig die stapeleffek, van die toevoeging van verdere en nuwe vaartuie tot die vloot dophou. Regtehouers sal nie toegelaat word om vaartuie in te bring wat tot vangspoging ontplooi wat ver bo hulle betrokke toekennings is nie. Verder mag die Departement met die Bedryfsliggaam van die Visvangsektor konsulteer in verband met aansoeke om verdere of nuwe vaartuie in die sektor te benut.

12.4 Monopolieë

Hoewel die Departement konsolidering van regtehouers in die visserij aanmoedig, is die Departement gekant teen monopolieë wat tot nadeel van die kleiner regtehouers kan werk.

Die Departement sal nie tans 'n maksimum TTV wat enige regtehouer mag hou of beheer, instel nie, maar sal monitor of enige groter regtehouer strydig optree met billike mededingingspraktyke.

13. Meet van prestasie

Die Departement sal 'n formele prestasiemeting onderneem vir die volle tydskedule van die kommersiële visvangregte. Dit word in die vooruitsig gestel dat die eerste stel meetings na twee jaar sal plaasvind en daarna elke vierde jaar.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers gemeet sal word na die toekenningsproses, eers sal finaliseer na oorlegpleging met die betrokke regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie en toerusting;
- volhoubare benutting, en in besonder, die ekologiese uitwerking van langlynvalstrik-vissery; en
- nakoming van toepaslike wette en regulasies.

14. Waarnemersprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassingsdoeleindes in te sluit. Die Departement sal die waarneming in hierdie vissery ook stelselmatig uitbrei. Van regtehouers sal verwag word om die koste van die waarnemingsproses te dra.

15. Permitvoorwaardes

Permitvoorwaardes vir hierdie visvangbedryf sal jaarliks uitgereik word. Die permitvoorwaardes op hierdie visvangbedryf vir die 2005-seisoen word as **Bylae A** aangeheg. Belanghebbende en geaffekteerde partye word uitgenooi om oor hierdie permitvoorwaardes kommentaar te lewer.

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