



29 December 2005

GENERAL REASONS FOR THE DECISIONS ON THE ALLOCATION OF RIGHTS IN THE SEAWEED SECTOR

1. Introduction

After the allocation of medium-term rights in 2001/2002 and the finalisation of the appeals processes in 2002/2003 the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (*"the Department"*) commenced with preparations for the allocation of long-term commercial fishing rights.

In January 2004, the Minister of Environmental Affairs and Tourism (*"the Minister"*) announced the commencement of the planning phase. The Minister called on the fishing industry and all other interested and affected parties to submit comment to the Department. A comment box was opened at MCM in which comments could be placed. In order to facilitate communication with the public and fishing communities, the Department developed a dedicated fisheries website (www.mcm-deat.gov.za); it established a customer services centre (0861 123 626) at its Cape Town head office and it further resourced each of the 29 fishery control offices along the coast.

In 2004, the Department also procured the services of project management specialists, specialist legal advisers, IT specialists, and a forensic auditing consortium to advise it on the long-term commercial fishing rights process. A Rights Allocation Unit was established in 2005 to co-ordinate and manage the long-term rights allocation process.

Earlier, during the latter half of 2003, rights were allocated to abalone divers for a period of ten years. In December 2004, another set of *"long-term"* commercial fishing rights were allocated in the large pelagic (tunas and swordfish) fishing industry. Long-term fishing rights for the remaining 20 commercial sectors were scheduled for the last quarter of 2005. The Seaweed sector is one of these sectors.

This document is entitled the *"General Reasons for the Decisions on the Allocation of Rights in the Seaweed fishery"* and will be referred to as the *"GPR"*. The GPR sets out the criteria and weighting, the

process and methodology and the policy reasons for the decisions on the allocation of rights in this sector. Every applicant in this sector will receive the following documentation:

- A notification letter, informing the applicant of the delegated authority's decision, together with the reason for that decision;
- A copy of the GPR;
- Copies of the Score Sheet and Assessment Sheet used to evaluate the applicant;
- A copy of the decision-making lists of the delegated authority; and
- An appeal form, which must be submitted together with the appeal (if the applicant chooses to appeal the decisions taken).

Copies of the Score Sheets and Assessment Sheets used to evaluate other applicants will be made available on request at the prescribed tariff. Requests for access to the completed application forms of other applicants and the annexures to the forms will be considered in terms of the Promotion of Access to Information Act 2 of 2000, as set out in the General Policy.

The specific reason contained in the notification letter to unsuccessful applicants, together with the GPR, the score sheets and the assessment sheets, constitute the reasons for a decision on the allocation of rights.

2. Policy and Application Form Development for Long Term Rights Allocation

A detailed report entitled "*Public Participation in the Development of Policy and Application Forms for the Allocation of Long-term Commercial Fishing Rights*" will be made available on the Department's website (www.mcm-deat.gov.za).

A Committee was established to co-ordinate and manage the drafting of a general fisheries policy and sector specific fishing policies. Draft policies were finalised after the Minister held a series of Ministerial *Izimbizo* with coastal communities along the west, south east and east coasts between June and November 2004 and after all registered industrial bodies and interest groups were consulted on sector management issues. On 1 March 2005, the Minister issued for public comment 19 draft fishery specific policies and a draft general policy on the allocation and management of long-term fishing rights.

A key feature of the draft policies was to divide the different commercial fisheries into four clusters. The clusters were determined having regard to the level of formal organisation within the various fisheries, the capital required for participation and the make-up of the participants in a fishery. A different allocation process (method of consultation, registration, distribution, receipting, communication and evaluation) was proposed for each cluster. The seaweed sector was included in "*Cluster B*", along with other fairly capital intensive sectors

such as West Coast rock lobster (Offshore), hake long line, squid, demersal shark and tuna pole. In these sectors, many of the participants are smaller entities owned by individuals reliant on the resource as their main source of income.

The draft policies were published in isiXhosa, Afrikaans, isiZulu and English in the Government Gazette and on the Department's website and copies were distributed along the coastline. For purposes of public consultation, the notice and comment process set out in the Promotion of Administrative Justice Act 3 of 2000 and its regulations were adopted. During March 2005, the Department consulted with fishing communities along the coast. A total of 53 villages, towns and cities were visited and more than 6000 fishers were consulted. In April 2005, further consultations with communities took place in 16 venues along the coast about the draft traditional line fish policy. At each consultation, every comment was recorded and documented by the Rights Verification Unit ("RVU"), an independent team of auditors. At the end of the consultation process, more than 9000 fishers between Port Nolloth and Durban had been heard orally. Apart from the thousands of oral comments which were recorded, the Department also received more than 900 written comments on the policies. Significant changes were made to the policies after the comments were considered.

In May 2005, Cabinet approved the 19 "*sector specific policies*" and the "*General policy*". In July 2005, Cabinet also approved the traditional line fish sector policy.

Stakeholders and affected parties were also given the opportunity to comment on the application forms before they were adopted. An abbreviated notice and comment process was followed in Cluster B. Draft application forms for each fishery were published on the website and comments were invited. Numerous changes were made to the application forms after the comments were considered.

3. Appointing the Delegated Authority

In July 2005, the Minister appointed Mr Andre Share, the then Acting Chief Director, Resource Management in the Department as the delegated authority responsible for the allocation of rights in the Seaweed sector. This delegation was withdrawn in December 2005 because the Department received more applications than anticipated and Mr Share's obligations in respect of other large fisheries made it impossible for him to give sufficient attention to the applications in the seaweed sector and to ensure a timeous allocation in the sector.

In his place the Minister, acting in terms of section 79 of the MLRA, appointed Ms Theresa Akkers, the Acting Director of Research and Development in the Department, as the delegated authority responsible for the allocation of long term fishing rights in the seaweed sector.

4. Registration, Distribution and Receipting of Applications

A detailed report entitled "*Registration, Distribution and Receipting in the Long-Term Rights Allocation Process*" will be made available on the Department's website (www.mcm-deat.gov.za). The deadline for registration for Cluster B sectors was set at 17h00 on Friday 25 July 2005 and for lodgement on 5 September 2005 (between 08h00 and 19h00) or 6 September 2005 (between 08h00 and 17h00) at the Good Hope Centre in Cape Town. A total of 2179 applicants registered for Cluster B long-term commercial fishing rights. Of these, 1885 lodged their applications timeously.

The RVU receipted a total of 53 applications for long term commercial fishing rights in the seaweed sector on behalf of the Department. Of the 53 applications received, 11 were from medium term right holder applicants and 42 were from new entrant applicants.

5. An Interactive Application Process

In the Cluster B sectors, applicants were able to obtain clarity and assistance with the completion of the application forms. In the period between registration and closing day, applicants could communicate with the delegated authorities by e-mailing questions to a designated address. Queries and Responses were provided weekly by notices on the Department's website (www.mcm-deat.gov.za) and by e-mail to each registered applicant. A report entitled "*The Interactive Application Process for the Allocation of Long-Term Rights Allocation Process*" will be made available on the Department's website (www.mcm-deat.gov.za). All the Queries and Responses dealt with in Cluster B will be published as part of this report.

The delegated authority further communicated in Cluster B through website notices and updates and by way of "*FishRights*" – a fortnightly E-Newsletter that is placed on the Department's website every second Monday. This newsletter is also e-mailed to over 400 fishing companies, journalists and circulated through interest groups and industrial bodies recognised by the Minister in terms of section 8 of the MLRA.

6. Decision Making Process

The delegated authority was assisted by an Advisory Committee; legal advisors; the RVU and auditors; IT specialists; communication consultants; and administrative and project management specialists.

A report entitled "*The Decision-making Processes for the Allocation of Long-Term Rights*" will be made available on the Department's website (www.mcm-deat.gov.za). In short, the process of allocating commercial fishing rights in the seaweed sector involved the following steps:

- ☞ Database Development: After the applications were received by the RVU, the delegated authority instructed the IT advisers to design a database to facilitate the analysis of applicant data across a range of fields, including, transformation, investment, job creation, compliance, and issues such as safety and environmentally sustainable practices. The purpose of the database was to assist with the development of detailed criteria and weighting and for identifying internal inconsistencies and deviations that required special verification and consideration.
- ☞ Criteria and weighting design: After the database for the fishery had been constructed, the delegated authority, with the assistance of the Rights Allocation Unit, designed detailed criteria and weighting. These criteria are listed below.
- ☞ Constitution of the Advisory Committees: The delegated authority then constituted an advisory committee. Mr Shaheen Moolla of the Rights Allocation Unit served on the advisory committee. The role of the Advisory Committee was to determine whether the applications were properly lodged, not materially defective and met the essential requirements of the sector, to assess the information provided in each application, to comment, and, in some instances, to score the application in terms of the balancing criteria and weighting determined by the delegated authority. Mr Moolla, together with the delegated authority, also relied on the expertise of Dr Rob Anderson for biological and technical advice.
- ☞ Instructing the Advisory Committees: The advisory committee was briefed and instructed by the delegated authority and legal advisors on, *inter alia*, the following:
- The applicable statutory provisions and case law;
 - The general policy and the sector specific policy adopted by the Minister and Cabinet for the Seaweed sector;
 - The current biological, economic and transformation profiles of the sector;
 - The detailed criteria and weighting to be applied; and
 - The purpose of each question asked in the application form applicable to the seaweed sector.
- ☞ Guiding the Advisory Committees: Over the duration of the verification and scoring process, the delegated authority met with the advisory committee and if necessary, instructed the committee on the manner in which to verify information or score a particular aspect of the application.
- ☞ Decision-making: After all applications were evaluated, the advisory committee presented the results to the delegated authority. The delegated authority then considered each assessment form and score sheet, having regard to the application. If there was any uncertainty regarding the score or the assessment, the

delegated authority instructed these aspects to be carefully re-assessed or rescored. The delegated authority also considered whether the selected criteria and weighting achieved the objectives set for the allocation of rights in the general and sector specific policies and, if necessary, adjusted weighting or criteria in order to better achieve the objectives.

7. Sector Profile Prior to Long Term Rights Allocations

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

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

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

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

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

Seaweed is harvested on a per area basis. The Department has divided the South African coastline (between Port Nolloth and Port St Johns) into 23 harvesting areas. Very few right-holders harvest seaweed and add value to it. Currently, many right-holders harvest seaweed for feed for abalone farms. In terms of value adding, seaweed is used in specialised "*health-food*" products, fertilizers, as part of aromatherapy products and for cosmetic products.

Despite the lack of value-adding, over 1 700 people (313 on a permanent basis and 1 450 on a seasonal basis) are employed in the seaweed sector. Average annual salaries are R38 500 in this sector. Of these jobs, 92 percent are held by historically disadvantaged persons. The majority of workers are women.

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

8. Seaweed Right Holders

Between 2001 and 2003, commercial seaweed harvesting rights were allocated to 13 enterprises. One exemption in terms of section 81 of the MLRA was granted in 2003. In 1997, the commercial seaweed sector was dominated by white-owned and managed enterprises. After the medium term rights allocation process, six out of 14 right-holders (43%) were black-owned and managed and seven (or 50 percent) were small- and medium-sized enterprises. Of the 23 commercial areas, seaweed is not exploited in areas 2, 3, 20 and 22.

9. Applicants for Long Term Rights

A total of 53 applications were received for long term commercial rights in the seaweed sector. Eleven applications were from medium term right holders and 42 were from new entrant applicants.

9.1 Profile of the Medium term right Applicants

The medium term right holder applicants submitted the following information in their application forms:

(a) Investment

Table 1: Investments in the Seaweed Sector

Total assets (book value)	R9,459,183.00
Total assets (insured value)	R8,557,167.00
The mean total assets book value (per concession area allocated) of all applicants	R1,901,566.15
The mean total assets insured value (per concession area allocated) of all applicants	R1,996,947.90

(b) Job creation

The mean salaries and wages that medium term right holders claim are paid per concession area was R220,810.80. In the seaweed sector, four medium term right holders claimed to have more employees in 2005 than in 2001, while no applicants have decreased jobs. On average, the medium term right holders employed some 31 people each, while the highest number of employees for any medium term right holders is 140. The mean number of permanent employees per medium term right holders were 21, and seasonal employees were 15. In total, the medium term right holders claimed to have created 341 jobs in the seaweed sector. The mean total employees per concession area allocated was 17.78, while the mean total (less seasonal jobs) was 15.5.

Table 2: Jobs in the Seaweed Sector

Total jobs (including seasonal):	341.00
Land-based IRP 5 jobs:	239.00
Mean monthly Salary bill per ton allocated:	220,810.80

(c) Financial information

The mean annual turnover of the medium term right holders was R125,444,364.91 and on average the seaweed sector contributed 80.1% to the turnover of the applicants. The average rand value of turnover per concession area allocated was R2,266,329.81. Profit after tax for all the medium term right holders together (in all sectors) amounted to R88,491,135.00. The medium term right holders paid a total of R127,103,000.00 in dividends in 2004. The combined asset value (for all sectors) of the medium term right holders is R255,779,161.00.

(d) Transformation

Transformation Plans

Of the 10¹ medium term right holder applicants, 6 claimed that they had fully achieved the goals set in the transformation plans submitted to the Department in 2001, 3 claimed that they only partially met the goals and 1 claimed that it had not met its goals at all.

Ownership

Black ownership of 3 applicants increased, 1 decreased and 6 remained the same. The mean (or average) black ownership of the medium term right holders in this sector in 2005 had increased to 57.80%. On average employees (other than top salary earners) own 15% of the medium term right holder applicants.

Table 3: Black Shareholding

Black Shareholding:	57.80%
Black Voting rights:	60.62%
Black Dividend entitlement:	56.84%

Calculated on net asset value, the black shareholding in the medium term right holders is worth R 559,044,991.18.

Table 4: Female Shareholding

Female Shareholding:	28.12%
Female Voting Rights:	25.06%
Female Dividend Entitlement:	28.12%

Calculated on net asset value, the female shareholding in the medium term right holders is worth R 192,452,164.93.

Employment Equity / Management

Table 5: Top Salary Earners

Ratio of Black to White Top Salary Earners	55 Black, 52 White: Ratio 1.058:1
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¹ The applicant records indicate that 11 applicants applied. However, two applications were received from one right holder – one for each area applied for. Accordingly, only 10 medium term right holder applicants applied.

The average top 5 salary earners' salaries were R198,270.31, with R 811,565.11 being the highest and R 1,560 being the lowest. The average of the five lowest salaries was R 22,617.56 per annum. The mean multiple between the top five salaries and the lowest five salaries was 8.26.

Table 6: Income levels (Percentage of workforce (Levels 1 to 10))

1	Less than R2 500 per month	46.87%
2	Between R2 500 and R 5 500	29.89%
3	Between R5 501 and R10 500	27.77%
4	Between R10 501 and R16 000	12.32%
5	Between R16 001 and R20 000	4.94%
6	Between R20 001 and R25 000	11.19%
7	Between R25 001 and R30 000	1.24%
8	Between R30 001 and R40 000	3.68%
9	Between R40 001 and R60 000	1.84%
10	More than R60 000	1.23%

Skills Development

Of the 10 MTRH applicants, 5 submitted approved workplace skills plans and 5 submitted approved annual training reports. The applicants paid R 2,662,871.26 to SARS in skills development levies. The mean percentage of salary bill spent on training was 3.97 %. R 779,341.60 was spent on training black employees. On average 3.46% of employees received learnerships.

Corporate Social Investment (CSI)

Of the 10 MTRH applicants, 2 made tax deductible donations and 4 made other forms of donations.

Affirmative Procurement

The top ten suppliers of the applicants were, on average, 29.61% black and the applicants procured, on average, 31.10% of total expenditure from their top ten suppliers.

9.2 Profile of the New Entrant Applicants (NE)

The new entrant applicants submitted the following information in their application forms:

(a) Investment

The book value of total assets amounted to R 20,817,648.23 and the insured value amounted to R17,310,107.46 (for all fishing sectors).

(b) Job creation

The mean number of employees claimed by NE applicants as at 28 February 2005 is 22.32 in fishing sectors other than seaweed. The mean salaries and wages paid in 2004 was R 27,062.82.

(c) Financial information

The mean annual turnover of the NE applicants was R2,413,121.16. Profit / loss after tax for all the applicants together (in all sectors) amounted to -R3,027,320.89. The NE applicants paid a total of R3,483,205.89 in dividends in 2004. The combined asset value of all the applicants (in all sectors) was R42,014,252.12 in 2004.

(d) Transformation

Ownership

The mean black ownership of the new entrants is 75.27%.

Table 7: Black Shareholding

Black Shareholding:	75.27%
Black Voting rights:	78.35%
Black Dividend entitlement:	74.87%

Calculated on net asset value, the black shareholding in the NE applicants is worth R 5,981,949.94.

Table 8: Female Shareholding

Female Shareholding:	45.25%
Female Voting Rights:	46.01%
Female Dividend Entitlement:	46.14%

Calculated on net asset value, the female shareholding in the applicants is worth R 3,495,920.74.

Employment Equity / Management

Table 9: Top Salary Earners

Ratio of Black to White Top Salary Earners	137 Black, 27 White: Ratio 5.074:1
Ratio of Male to Female Top Salary Earners	92 Men, 72 Women: Ratio 1.278:1

The average top 5 salary earner's salary was R 68,287.81 with R 219,001.00 at the top. The average of the five lowest salaries was R 18,910.56 per month. The mean multiple between the top five salaries and the lowest five salaries was 5.2.

Table 10: Income levels (Percentage of workforce (Levels 1 to 10))

1	Less than R2 500	78.01%
2	Between R2 500 and R 5 500	31.46%
3	Between R5 501 and R10 500	10.76%
4	Between R10 501 and R16 000	6.62%
5	Between R16 001 and R20 000	0.5%
6	Between R20 001 and R25 000	0%
7	Between R25 001 and R30 000	0%
8	Between R30 001 and R40 000	3%
9	Between R40 001 and R60 000	0%
10	More than R60 000	0%

Skills Development

Of the 42 NE applicants, 2 submitted approved workplace skills plans and 1 submitted approved annual training reports. The applicants paid R 66,566.29 to SARS in skills development levies. The mean percentage of salary bill spent on training was 0.68 %. R 11,358.84 was spent training black employees.

Corporate Social Investment (CSI)

Of the 8 NE applicants, 6 made tax deductible donations and 4 made other forms of donations.

Affirmative Procurement

The top ten suppliers of the applicants were, on average, 40.01% black.

10. Criteria

10.1 Exclusionary Criteria

All the applications were initially scrutinised to determine whether they were properly lodged, whether they were not materially defective and whether they fulfilled the essential requirements of the sector, including whether they presented a paper quota risk.

An application was ***improperly lodged*** if:

- ☞ The application was not lodged at the prescribed place within the prescribed time;
- ☞ The correct application fee was not paid by the applicant within the required timeframes;
- ☞ An entity other than the entity that registered to apply for a long term commercial seaweed right submitted an application; or
- ☞ The application was not lodged on the official prescribed application form.

An application was ***materially defective*** if:

- ☞ The declaration was not signed and attested to by the authorised representative of the applicant, and if applicable, the authorised representative of the Holding Company, the Sister Company or the JV Partner(s);
- ☞ More than one application was received from the same applicant in the same sector;
- ☞ The applicant provided false information or false documents; or
- ☞ The applicant failed to disclose material information, or attempted to influence the Minister or the delegated other than in the manner provided for in the General Policy during the application period.

An applicant failed to meet the ***essential requirements*** of the sector if:

- ☞ The applicant posed a paper quota risk as defined in the General Policy;
- ☞ The applicant was a new entrant applicant and a medium-term right holder held shares in the applicant or used the applicant in order to proliferate in the sector in a manner contrary to the General Policy. This consideration did not apply unless the medium term

right holder and the new entrant applicant applied for the same genus in the same concession area;

- ☞ The applicant is not a close corporation or company;
- ☞ The applicant breached a provision of the MLRA resulting in sanctions provided for paragraph 7.1(b) of the Seaweed policy;
- ☞ The applicant is not more than 50% South African owned; or
- ☞ The applicant was a medium term right holder and failed without good reason to utilise its seaweed right.

10.2 Comparative Balancing Criteria: Medium Term Right Holder Applicants

All the applications that were not excluded in terms of the exclusionary criteria were then compared to each other in terms of a set of comparative balancing or “scoring” criteria. Medium term right holder applicants were compared to other medium term right holder applicants that applied for the same genus or functional groups in the same concession area. New entrant applicants were compared to other new entrant applicants for the same genus or functional group in the same concession area. It must be noted that where a medium term right holder applied for a right in an area it did not hold a medium term right in (for example, a MTRH in Area 4 applies for a long term right in Area 22), it was considered a MTRH applicant.

The delegated authority adopted the following detailed criteria and weighting for medium term right holder applicants:

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Investment			32		32%
Insured value of total assets ² per concession area allocated	>90th	20			
	80th-90th	18			
	70th-80th	16			
	60th-70th	14			
	50th-60th	12			
	40th-50th	10			
	30th-40th	8			
	20th-30th	6			
	10th-20th	4			
	1st-10th	2			
Applicant invested in research and the development of marketable seaweed products ³		7			
Applicant invested in processing and marketing infrastructure or strategies ⁴		5			

² Total assets includes all land-based fixed assets.

³ Applicants were allocated 7 points if they demonstrated rand spend on research in the marketing of seaweed products.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Reliance				5	5%
Applicant is more than 80% reliant on the resource		5			
Jobs				6	6%
Total (less seasonal) employees	>90th	5	5		5%
	80th-90th	4.5			
	70th-80th	4			
	60th-70th	3.5			
	50th-60th	3			
	40th-50th	2.5			
	30th-40th	2			
	20th-30th	1.5			
	10th-20th	1			
	1st-10th	0.5			
Applicant has increased the total number of jobs (seasonal and permanent) over the medium term period		1	1		1.0%
Safety				1	1.0%
The applicant has registered with the Commissioner in terms of the Compensation for Occupational Injuries and Diseases Act 130 of 1993		0.5			
The applicant has an HIV/AIDS policy		0.5			
Local Economic Development				2	2%
Invested in infrastructure in the concession area.		1			
Involved members of local communities in the harvesting of seaweed		1			
Value Adding				4.5	4.5%
Applicant has added value to seaweed harvested and marketed products either locally or internationally ⁴		4.5			
Ecosystem Impacts				2	2.0%
Has the applicant put in place a harvesting plan that addresses particularly the steps taken to mitigate against harm to fauna and flora in the coastal zone while harvesting		2			
Transformation				47.5	47.5%
Transformation - Directors				2	2.0%
Applicant's black directors (or members if CC) as a percentage of total directors is more than the sector mean		1			
Applicant's female directors (or members if CC) as a percentage of total directors is more than the sector mean		1			
Transformation - Top Salary Earners				6	6.0%
Applicant's black top salary earners as a percentage of total top salary earners is more than the 75th percentile		4			
Applicant's black top salary earners as a percentage of total top salary earners is between the 50th and the 75th percentiles		2			
Applicant's female top salary earners as a percentage of total top salary earners is more than the 75th percentile		2			

⁴ Applicants were allocated 5 points if they demonstrated investments in processing and marketing infrastructure or strategies in this sector.

⁵ Applicants were scored for "value-adding" if they at a minimum demonstrated that the seaweed harvested was either processed and marketed or was used in a secondary industry and which created further value.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Applicant's female top salary earners as a percentage of total top salary earners is between the 50th and the 75th percentile		1			
Transformation - Income Levels⁶			8		8.0%
EE Profile in terms of the income level table	0th - 25th	8			
	25 - 50th	6			
	50th - 75th	4			
	75th - 90th	2			
Transformation - Occupational Categories⁷			2		2.0%
Applicant's EE ACI performance is:	>75th	1.5			
	50th - 75th	0.5			
	25th - 50th	0.25			
Applicant's EE Female performance is:	>75th	0.5			
	50th - 75th	0.25			
	25th - 50th	0.15			
Transformation - Ownership				23	23%
Applicant's black ownership falls:	>75th	18	18		18%
	50th - 75th	14			
	25th - 50th	8			
	10th - 25th	4			
Applicant's black ownership has increased between 2001 and 2005 by: ⁸	>75th	2	2		
	50th - 75th	1			
Applicant's female ownership falls:	>75th	3	3		3.0%
	50th - 75th	2			
	25th - 50th	1			
	10th - 25th	0.5			
Applicant's employee ownership falls:	>75th	2	2		2.0%
	50th - 75th	1			
	25th - 50th	0.5			
Skills Development			3.5		3.5%
Applicant submitted an approved Workplace Skills Plan in 2004		0.5			

⁶ The Employment Equity ("EE") profile in terms of income levels was determined as follows. As a first step the percentage blacks in the workforce at each completed income level (blacks divided by total workers at a level multiplied by 100) was calculated. This percentage was then subtracted from 89.4% (the current % blacks in the Economically Active Populations in the coastal provinces) for each level. The result was multiplied by an assumed mean salary at each level divided by 1000 (in other words, 1.25, 4, 8, 13.5, 18, 22.5, 27.5, 35, 50 and a figure of 60 was used for level 10). This result was multiplied by the percentage the level constitutes of the total workforce. The results of all the completed levels were added up and divided by the number of levels completed by the applicant. The results were then converted and expressed into percentiles for comparison. The applicant with the highest negative figure achieved the best score and the applicant with the highest positive figure received the lowest score.

⁷ This criterion was assessed as follows: black and female representation was measured with the emphasis on occupational categories where black and female representation has traditionally been low. This was done by assigning a different number of penalty points to the different levels of occupational categories. There were four (4) levels and the following penalty points were assigned: top management – 6, professionals – 4, Skilled - 2, Semi-skilled – 1. The score was calculated by taking the % figure for each occupational category and comparing it to the EAP in the coastal provinces, consisting of 48.5% females and 89.4% blacks. If the applicant had a higher figure, it would automatically score a 1. If the figure was less, the following calculation was used: $1 - (\text{applicant's \%} / \text{EAP})$. The result was then multiplied by the penalty points. This gave a penalty for that occupational category. A score for each category was calculated and the four numbers added together and the total divided by the number of levels, in this case four. This was done separately for black and for female, yielding two scores.

⁸ Applicants were not allocated points for this criterion if they achieved the maximum number of points (18) for black ownership, above.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Applicant submitted an approved Annual Training Report in 2004		0.5			
Applicant's percentage of salaries bill spent on training between 2001 & 2004 is higher than the mean		0.5			
Applicant's percentage of training budget spent on black employees between 2001 & 2004 is more than the mean		0.5			
Applicant's learnerships are more than the mean number of learnerships		0.5			
Applicant's percentage of salaries bill spent on training in 2004 is more than 1%		0.5			
Corporate Social Investment			1		1.0%
Applicant's tax deductible donations amount to more than 1% of net profit	>1%	1			
	0.5-1%	0.5			
Affirmative Procurement			0.5		0.5%
Applicant answered "Yes" to Questions 6.21, 6.23 and 6.24		0.5			
Enterprise Development			1		1%
Applicant is involved in enterprise development in this sector		1			
EE Compliance			0.5		0.5%
Applicant is a designated employer and has failed to comply with the Employment Equity Act		-3			
Applicant complied with the Employment Equity Act		0.5			
Applicant complied voluntarily with the Employment Equity Act		0.5			
Compliance					
Applicant, or applicant's members, directors or controlling shareholders have entered into a plea bargain in respect of a contravention of the MLRA, its Regulations or permit conditions		-3			
The Applicant, or applicant's members, directors or controlling shareholders have paid an admission of guilt fine for contraventions of the MLRA, its Regulations or permit conditions		-1			
Total Possible Score			100		100.0%

10.3 Comparative Balancing Criteria: New Entrant Applicants

The delegated authority adopted the following detailed criteria and weighting for new entrant applicants:

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Investment			5		5.0%
Investment in assets, including investments into research concerning the processing and marketing of seaweed ⁹	None	-5			
	Non-trading/newly established Entity	0			
	Has made investments	5			
Financial Performance			20		20.0%
Profit after Tax as a percentage of Turnover is greater than the mean		5			
Retained Earnings as a percentage of turnover is greater than the mean		5			
Return on Equity is greater than the mean		10			
Applicant has the financial ability to enter the sector (for newly established and non-trading entities only) ¹⁰	Does not have the ability	0			
	Has the ability	20			
Jobs			5		5.0%
Applicant's Jobs Score ¹¹	Has not created jobs	-5			
	Non right holder/newly established	0			
	Has created jobs	5			
Safety			0.5		0.5%
The applicant has an HIV/AIDS policy		0.5			
Harvesting Ability			15		15.0%
Harvesting Ability ¹²	Demonstrates little or no ability	0			
	Demonstrates acceptable levels of ability	10			
	Demonstrates good ability	15			
Local Economic Development ("LED")			1		1.0%

⁹ The reason why negative scores were given to right holders (in other sectors) with no investments is to allow them to be compared with non-trading and newly established entities. Non-right holder new entrants that have made investments in the fishing industry were also scored 5 points. Further, applicants were scored only if they invested financially in research. Research on the internet or literature reviews were not considered to be "investments in research".

¹⁰ The reasons for this assessment are set out in the assessment sheets.

¹¹ The reason why negative scores were given to right holders (in other sectors) with a poor job creation record is to allow them to be compared with non-trading and newly established entities. Non-right holder new entrants that have created jobs in the fishing industry were also scored 5 points.

¹² Regard was had to the applicant's harvesting plan, especially the annexure setting out the implementation of the harvesting plan and the skills and knowledge of the persons designated to do so.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Applicant intends to involve members of the local community should it be allocated a seaweed right		1			
Transformation				53.5	53.5%
Transformation - Directors			9		9.0%
Applicant's black directors (or members if CC) as a percentage of total directors is higher than the mean		4.5			
Applicant's female directors (or members if CC) as a percentage of total directors is higher than the sector mean		4.5			
Transformation - Top Salary Earners			3		3.0%
Applicant's black top salary earners as a percentage of total top salary earners ⁹	<33.3%	-2			
	33.3 - 66.6	0			
	>66.6	2			
Applicant's female top salary earners as a percentage of total top salary earners	<33.3%	-1			
	33.3 - 66.6	0			
	>66.6	1			
Transformation - Occupational Categories			2		2.0%
ACI Performance Score ¹⁰	<33.3%	-1			
	33.3 - 66.6	0			
	>66.6	1			
Female Performance Score	<33.3%	-1			
	33.3-66.6	0			
	>66.6	1			
Transformation - Ownership				35	35.0%
Applicant's black ownership falls:	>90th	24	24		24.0%
	80th-90th	20			
	70th-80th	18			
	60th-70th	16			
	50th-60th	14			
	40th-50th	12			
	30th-40th	10			
	20th-30th	8			
	10th-20th	6			
	1st-10th	4			
Applicant's female ownership falls:	>90th	10	10		10.0%
	80th-90th	9			
	70th-80th	8			
	60th-70th	7			
	50th-60th	6			
	40th-50th	5			
	30th-40th	4			

¹³ Negative scores were given to right holders (in other sectors) with comparatively low scores in order to compare such new entrant applicants with non-trading and newly established entities without workers. The latter were scored 0. Non right holder new entrant applicants with jobs were scored in the same manner as right holder applicants. Female top salary earners were assessed in the same manner.

¹⁴ The ACI occupational levels were determined as set out above for medium-term right holder applicants. Negative scores were given to right holders (in other sectors) with comparatively low scores in order to compare such new entrant applicants with non-trading and newly established entities without workers. The latter were scored 0. Non right holder new entrant applicants with jobs were scored in the same manner as right holder applicants. Female occupational categories were assessed in the same manner.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
	20th-30th	3			
	10th-20th	2			
	1st-10th	1			
Applicant's employee ownership	None but has employees	-1			
	No Employees	0			
	Has Employee Share Scheme	1	1		1.0%
Skills Development			1		1.0%
Skills Development Score ¹⁵	Has employees but has failed to pay skills levies	-1			
	Non-trading Entity with no employees	0			
	Has employees and has paid skills levies and participated in a learnership programme	1			
Corporate Social Investment			1		1.0%
Corporate Social Investment ¹⁶	Made profit and no CSI	-1			
	No profit	0			
	>1%	1			
	0.5% - 1%	0.5			
Affirmative Procurement¹⁷			1		1.0%
Applicant has an AP policy		1			
Applicant procures from black suppliers		1			
Enterprise Development			1		1.0%
Enterprise Development Score	Right holder with no Enterprise Development	-1			
	Non-trading/newly established entity	0			
EE Compliance			0.5		0.5%
Applicant is a designated employer and has failed to comply with the Employment Equity Act		-3			
Applicant complied with the Employment Equity Act		0.5			
Applicant complied voluntarily with the Employment Equity Act		0.5			
Compliance					0%
Applicant, or applicant's members, directors or controlling shareholders have entered into a plea bargain in respect of a contravention MLRA, its Regulations or permit conditions		-3			

¹⁵ Applicants with employees that did not pay levies were scored -1. Applicants without employees scored 0. Applicants that paid levies and participated in learnership programmes or other skills development programmes through a SETA scored 1 point. Applicants with employees that (only) paid levies scored 0.

¹⁶ Applicants that made a profit and made no donations scored -1. Applicants that did not make a profit (or newly established and non trading entities) and that did not make donations score 0. Applicants that made donations scored 1.

¹⁷ One point was awarded if the applicant had a policy or if the applicant procured from suppliers with some black shareholding. A maximum of 1 point could be scored.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
Applicant, or applicant's members, directors or controlling shareholders have paid an admission of guilt fine for contraventions of the MLRA, its Regulations or permit conditions		-1			
Total Score			100		100.0%

11. The Decisions on Applications for Long Term Rights

In the Seaweed sector specific policy it is provided that the objectives for this fishery include the improvement of the transformation profile of the sector; the promotion of beneficiation; the expansion of resource utilisation and the promotion of the involvement of local communities in the harvesting of seaweed.

In pursuit of satisfying these objectives, the delegated authority decided to –

- ⌘ Not allocate rights to 2 medium term right holder applicants; and
- ⌘ Allocate rights to 5 new entrant applicants and 8 medium term right holder applicants, and in so doing, allocate at least one genus or functional group in each of the 23 concession areas along the coast.

The two medium term right holder applicants that were refused long term seaweed rights were unsuccessful as they had submitted exceptionally poor applications, which demonstrated that they had not invested in the sector, did not have a harvesting plan, had not value-added or undertaken enterprise development or indicated any commitment to local economic development.

As stated above, in comparing applications, the delegated authority had regard to each applicant's nominated concession areas and preferred genus or functional group. A summary of the geographical distribution of applications is provided in **Annexure A**. The delegated authority allocated a total of 26 commercial seaweed harvesting rights, of which 15 are allocated to medium term right holder applicants and 11 are allocated to new entrant applicants.

The delegated authority considered and evaluated 6 new entrant applicants as having improperly lodged applications on the basis that the entities that registered and paid application fees for a long term seaweed right did not apply for seaweed rights. Instead, 6 different entities submitted applications. In addition, one new entrant application was refused a right on the basis that the authorised representative of the applicant did not sign and attest to the declaration in the application form.

Finally, the delegated authority did not allocate commercial seaweed harvesting rights to applicants that sought to collect mixed inter-tidal seaweeds such as red seaweeds, *hypnea*, *gigartina*, *caulerpa*, *codium* and *enteromorpha* as the delegated authority considered the harvesting of these species to pose an ecological threat to the immediate environment.

12. The Allocation of Genus and Concession Areas

The delegated authority allocated a total of 26 commercial seaweed harvesting rights to the right holders stipulated in **Annexure B**. This Annexure also stipulates the concession areas allocated to each right holder. The specific genus / functional group that the right holder may harvest will be specified in the section 13 fishing permit.

13. Have the Objectives of this Fishery Been Met?

The Seaweed sector policy records the following as the over-arching objectives for this sector:

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

- *Improve the transformation profile of the sector;*
- *Promote further investment in seaweed beneficiation;*
- *Expand the utilisation of the resource;*
- *Promote the involvement of local communities in the harvesting of seaweed;*
- *Support the economic viability of the sector; and*
- *Ensure the environmental sustainability of the sector."*

The allocation of the 26 rights to the successful applicants has resulted in an increase in the black ownership profile of this sector (from 43% to 55%). The successful applicants have either (as medium term right holder applicants) been involved in beneficiation or have demonstrated the ability and knowledge (as new entrant applicants) to beneficially utilise seaweed. Thirdly, rights have been allocated in each of 23 concession areas and in certain concession areas rights have been allocated to harvest more than one functional group or genus, provided that such utilisation would be ecologically sustainable. Fourthly, a number of the successful applicants are community based companies or close corporations. With respect to the remaining successful applicants, they have each employed members from adjacent local communities or, if new entrant, have committed themselves to employing harvesters from local communities. The allocation of long term commercial fishing rights in this sector has resulted in the following profile:

Key Empowerment Data:

☞ Percentage of black right holders in this sector:	55.08%
☞ Percentage of female shareholding in this sector:	24.63%
☞ Number of right holders that are either community based entities or that employ members of local communities:	100%
☞ Number of rights allocated compared to 2001:	26 (21 in 2001)
☞ Percentage of concession areas utilised:	100%

Key Economic Data:

☞ Jobs in this sector:	284
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14. Permit Conditions for this Fishery

The Seaweed sector policy stipulates that prior to the finalisation of permit conditions for this fishery, the Department will consult with the right holders. The Chief Director: Resource Management (*"the CD:RM"*) is authorised to determine these conditions. In order to better manage the sector, maintain the transformation profile of the fishery, and to obtain further data on the impacts of harvesting in the different concession areas, the CD: RM, after consultation with the delegated authority, and having regard to the policy objectives of this fishery intends to determine permit conditions that give effect to, *inter alia*, the following considerations:

14.1 Performance Measuring: Right holders in this fishery will be measured against criteria such as transformation, investment, reporting, compliance and sustainable fishing harvesting practices. The CD:RM will design permit conditions to ensure adherence with these criteria and will require right holders to provide data during the second fishing season in this regard.

14.2 Vehicle Use in the Coastal Zone: Permit conditions will require a vehicle use permit in terms of GN regulation 1399 of 21 December 2001 (as amended) if a right holder wishes to utilise a vehicle in the coastal zone.

14.3 Reporting: All right-holders in this sector will have to adhere to strict and regular reporting measures to ensure that concession areas remain viable and optimally exploited.



Ms Theresa Akkers

Delegated Authority: Seaweed Sector

29 December 2005

Annexure A

List of Applicants by Concession Area Applied For

Areas	Applicants	
1	Taurus Chemicals (Cape Kelp) (Pty) Ltd Songena Seaweeds (Pty) Ltd Desert Star Trading 10 (Pty) Ltd Zimkita Contractors & General Suppliers Lejamo Contractors cc Gudlunxweme (Pty) Ltd	MTRH NE NE NE NE NE
2	Zimkita Contractors & General Suppliers Lejamo Contractors cc Global Pact Trading 193 (Pty) Ltd	NE NE NE
3	Lejamo Contractors cc Global Pact Trading 193 (Pty) Ltd	NE NE
4	Irvin & Johnson Ltd	MTRH
5	Irvin & Johnson Ltd Buffeljagsbaai Marine Co (Pty) Ltd Taurus Chemicals (Cape Kelp) (Pty) Ltd Hawthu Fishing cc Scenematic 16 (Pty) Ltd Siyazama Fisheries Victory Ticket 225 cc Mudge Point Fishing cc Y & L Fishing Enterprises (Pty) Ltd	MTRH MTRH MTRH NE NE NE NE NE NE
6	Taurus Chemicals (Cape Kelp) (Pty) Ltd Relmar Investments (Pty) Ltd Agulhas Marine Resources cc Hawthu Fishing cc Overberg Commercial Abalone Divers Scenematic 16 (Pty) Ltd Zizwe Fishing cc Copper Lake Investments 181 cc Global Pact Trading 193 (Pty) Ltd Soetmuis Nege cc	MTRH NE NE NE NE NE NE NE NE NE

	Sabre Seafoods Marketers cc FWC Products (Pty) Ltd Y & L Fishing Enterprises (Pty) Ltd	NE NE NE
7	Taurus Chemicals (Cape Kelp) (Pty) Ltd Relmar Investments (Pty) Ltd Agulhas Marine Resources cc Hawthu Fishing cc Overberg Commercial Abalone Divers Ltd Zizwe Fishing cc Copper Lake Investments 181 cc Isolomzi Kelp cc Soetmuis Nege cc Haliotis Midae Investments Y&L Fishing Enterprises (Pty) Ltd Sabre Fishfoods FWC Products (Pty) Ltd	MTRH NE NE NE NE NE NE NE NE NE NE NE NE
8	Pearly Beach Fisheries (Pty) Ltd Relmar Investments (Pty) Ltd Agulhas Marine Resources cc Hawthu Fishing cc Overberg Commercial Abalone Divers Zizwe Fishing cc Copper Lake Investments cc Joe Geldenhuys Konstruksie cc Silver Solutions 1239 cc Y&L Fishing Enterprises (Pty) Ltd Imvuso Trading FWC Products (Pty) Ltd	MTRH NE NE NE NE NE NE NE NE NE NE NE
9	Kelp Products (Pty) Ltd Joe Geldenhuys Konstruksie cc Y&L Fishing Enterprise (Pty) Ltd Adistra 21cc East of Eden 448 cc	MTRH NE NE NE NE
10	Joe Geldenhuys Konstruksie cc Verdino 143 (Pty) Ltd Y&L Fishing Enterprises (Pty) Ltd Adistra 21 cc East of Eden 448 cc Ingelosi Trading 146 cc	NE NE NE NE NE NE

11	Pimpano Fifteen (Pty) Ltd Maribus Industries (Pty) Ltd Verdino 143 (Pty) Ltd Coastal Kelp Collectors cc Northern Spark Trading 37 (Pty) Ltd Mbonko Suppliers cc (West Coast Domestic Supplies)	MTRH MTRH NE NE NE NE
12	Maribus Industries (Pty) Ltd Verdino 143 (Pty) Ltd Coastal Kelp Collectors cc Buddingtrade 1114 BK	MTRH NE NE NE
13	Eckloweed Industries (Pty) Ltd Aasverpakkings Visserye Coastal Kelp Collectors cc	MTRH NE NE
14	Eckloweed Industries (Pty) Ltd	MTRH
15	Pimpano Fifteen (Pty) Ltd Rekaofela Kelp (Pty) Ltd	MTRH MTRH
16	Pimpano Fifteen (Pty) Ltd Rekaofela Kelp (Pty) Ltd Buddingtrade 1114 BK	MTRH MTRH NE
17	Verdino 143 (Pty) Ltd	NE
18	The Fishing & Mariculture Development of the Northern Cape Ltd	NE
19	Premier Fishing SA (Pty) Ltd The Fishing & Mariculture Development of the Northern Cape Ltd Thusano Empowerment (Pty) Ltd Buddingtrade 1114 BK	MTRH NE NE NE
20	Zimkita Contractors & General Suppliers Lejamo Contractors cc	NE NE
21	Taurus Chemicals (Cape Kelp) (Pty) Ltd Zimkita Contractors & General Suppliers	MTRH NE
22	Zimkita Contractors & General Suppliers Lejamo Contractors cc	NE NE

23	Taurus Chemicals (Cape Kelp) (Pty) Ltd Zimkita Contractors & General Suppliers	MTRH NE
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Annexure B

List of Successful Applicants and Concession Areas & Genus Allocated

	Application Number	Name of Successful Applicant	Concession Area and Functional Group Allocated
1	SWDM00307	Taurus Chemicals (Cape Kelp) (Pty) Ltd	Area 1: Gelidium Area 6: Kelp Area 7: Kelp Area 21: Gelidium Area 23: Gelidium
2	SWDN00212	Global Pact Trading 193 (Pty) Ltd	Area 2: Gelidium Area 3: Gelidium
3	SWDM00301	Irvin and Johnson Ltd	Area 4: Beach Cast Area 5: Beach Cast
4	SWDM00211	Buffeljagsbaai Marine Co (Pty) Ltd	Area 5: Kelp
5	SWDM00306	Pearly Beach Fisheries (Pty) Ltd	Area 8: Kelp
6	SWDM00304	Kelp Products (Pty) Ltd	Area 9: Kelp
7	SWDN00284	Verdino 143 (Pty) Ltd	Area 10: Kelp Area 11: Kelp and Gracilaria Area 12: Kelp and Gracilaria Area 17: Kelp (beach cast) and Gracilaria
8	SWDN00290	Buddingtrade 1114 BK	Area 12: Ulva and Porphyra Area 16: Ulva and Porphyra
9	SWDM00305	Eckloweed Industries (Pty) Ltd	Area 13: Kelp Area 14: Kelp

	Application Number	Name of Successful Applicant	Concession Area and Functional Group Allocated
10	SWDM00001	Rekaofela Kelp (Pty) Ltd	Area 15: Kelp Area 16: Kelp
11	SWDN00002	The Fishing & Mariculture Development of the Northern Cape (FAMDA)	Area 18: Kelp
12	SWDN00063	Lejamo Contractors cc	Area 20: Gelidium Area 22: Gelidium
13	SWDM00302	Premier Fishing SA (Pty) Ltd	Area 19: Kelp
Total		13 Right holders	26 Rights