



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

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

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

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1. Introduction

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

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

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

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

2. Biological status of the fishery

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

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

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

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

3. Profile of the Fishery

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

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

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

4. The medium-term rights allocation process

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

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

The medium-term allocation records show that:

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

5. Over-arching sectoral objectives

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

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

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

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

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

6. Duration of rights

Having regard to –

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

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

7. New Entrants

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

8. Exclusionary criteria

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

8.1 Exclusionary criteria

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

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

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

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

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

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

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

8.2 Comparative balancing criteria

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

(a) Transformation

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

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

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

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

(b) Investment in the fishery

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

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

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

(c) Jobs

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

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

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

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

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

(e) Performance

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

(f) Payment of fish levies

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

(g) By-catch

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

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

(h) Compliance

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

8.3 Quantum criteria

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

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

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

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

9. Suitable vessels

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

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

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

10. Multi-sector involvement

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

11. Landing sites

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

12. Management measures

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

12.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment. This part of the horse mackerel fishing policy does not attempt to provide a policy statement on EAF in the horse mackerel fishery. The EAF

in the horse mackerel fishery will be detailed further in the Fishery Management Manual for the horse mackerel fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

12.2 Consolidation of participants

After the allocation of 10-year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery, particularly where:

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

12.3 Precautionary maximum catch limit

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

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

13. Performance measuring

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

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

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

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

14. Application fees and levies

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

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

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

15. Observer programme

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

16. Permit conditions

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