



**DEPARTMENT OF AGRICULTURE FORESTRY AND FISHERIES
BRANCH FISHERIES MANAGEMENT**

**DRAFT POLICY FOR THE ALLOCATION OF
FISHING RIGHTS IN THE
TUNA POLE AND LINE FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE
ALLOCATION OF FISHING RIGHTS: 2013 (available at
www.daff.gov.za)**

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar

Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

This policy on the allocation of fishing rights in the tuna pole and line fishery is issued by the Minister of Agriculture Forestry and Fisheries (“the Minister”). This policy must be read with the General Policy on the Allocation of Fishing Rights: 2013 (“the General Fisheries Policy”).

The purpose of this policy is to set out the considerations that will apply to the allocation of tuna pole and line fishing rights. Many of these considerations are not new. They have been applied by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management when allocating rights in the past for the tuna pole fishery. This policy documents these considerations, but includes a few changes and additions.

The Minister intends to delegate the section 18 power to allocate tuna pole rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 (“the MLRA”) to a senior official of the Department of Agriculture Forestry and Fisheries (hereafter referred to as the “Department”). This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Biology and resource dynamics

Sub-adult (8-12 kg) albacore (*Thunnus alalunga*) is the main target of the tuna pole fishery. In recent years the fishing gear used by the tuna pole fishery has diversified to include rod and reel to target large (>50 kg) yellowfin tuna (*T. albacares*) off Cape Point. The diversification occurred to capitalise on increased abundance of yellowfin in some years, which assisted to supplement the income derived from albacore. Albacore prefers cool temperate water and is more abundant along the west coast of South Africa. In contrast, yellowfin prefers warmer water and is more abundant along the south and east coast of South Africa. Both tuna species have wide geographic distributions occurring in all the major ocean basins. They are also highly migratory fish, with the same stocks fished by many different fishing nations. Consequently, these stocks are managed globally by Regional Fisheries Management Organisations (RFMOs). These are inter-governmental bodies that are responsible for the management of these resources, including stock assessments, allocating country quotas, and adopting conservation and management measures. The RFMO responsible for the management of tuna and tuna-like species in the Atlantic Ocean is the International Commission for the Conservation of Atlantic Tunas (ICCAT) and its counterpart in

the Indian Ocean is the Indian Ocean Tuna Commission (IOTC). South Africa is a long-standing member of ICCAT and is in the process of acceding to the IOTC. The albacore currently fished by the fishery is considered to be part of the southern Atlantic albacore stock, which is managed by ICCAT and South Africa's yellowfin catches is thought to be derived from the Indian Ocean stock. The latter is a hypothesis that is currently being investigated by the Department.

Southern Atlantic albacore spawn in the western Atlantic and migrations follow the South Atlantic gyre. During the summer months (October to May) the sub-adult and juvenile component of the resource form surface schools which migrate north along the west coast of South Africa. Impacts of other countries fishing activities and environmental conditions such as food availability, ocean fronts and weather are thought to play a large role in determining the abundance of the migrating schools in South Africa's coastal waters. Yellowfin, in contrast, spawn in tropical waters of both the Atlantic and the Indian Ocean. It is hypothesized that some of the large adult yellowfin in the Indian Ocean use the Mozambique and Agulhas currents to undertake extensive migrations to feeding areas off Cape Point. Like albacore the abundance of the resource in South African waters is highly variable and is thought to be influenced by environmental conditions and fishing pressure on the high seas and in coastal waters of East African countries.

Due to the seasonal nature of the fishery the current tuna pole fishery has been granted additional access to other species, including snoek (unlimited), yellowtail (bag limit of 10 per person per trip), oceanic squid (unlimited), dorado (unlimited) and angel fish (unlimited) during the long-term rights allocation in 2005.

3. Profile of the Fishery

The tuna pole fishery was established in 1979 due to a large run of yellowfin, which resulted in approximately 5,000 t landed in that year. When the yellowfin failed to appear the following year the fishery started targeting albacore. The tuna pole fishery uses poling gear to target schooling juvenile albacore in the southeast Atlantic, largely for export to canning markets. Yellowfin in recent years have been increasingly targeted with rod and reel. Yellowfin are largely exported to fresh tuna markets, with limited quantities sold on the domestic market. Other tuna species landed include bigeye and skipjack, but these species make up about one percent of the annual catch.

right holder

South Africa's catches of albacore has declined over the last two decades, from about 8 000 t p.a. in the 1990s to approximately 3 000 t p.a. in recent years. One of the main reasons for this decrease occurred when Namibia declared its independence and consequently access to one of the main fishing areas, namely Tripp Seamount, was no longer available to South African vessels. The removal of this fishing ground also reduced incentives for vessels to search for albacore along the west coast of South Africa. Rising fuel costs also served to constrain fishing activities to fishing grounds which are close to the major tuna pole fishing harbours of Hout Bay and Cape Town. In the last decade an increasing number of fishers have diversified their fishing operations to target yellowfin as well to supplement the revenue derived from reduced catches of albacore. Consequently, yellowfin catches have increased and fluctuates between 500 – 1 000 t p.a.

Both the IOTC and ICCAT have expressed concerns regarding the stock status of albacore and yellowfin in the Atlantic and Indian oceans respectively. According to the recent ICCAT stock assessment for south Atlantic albacore it indicates that the resource is over-exploited and undergoing overfishing. In order to rebuild the southern Atlantic albacore stock ICCAT has reduced the Total Allowable Catch, and in so doing has allocated a combined quota of 10 000 t for South Africa and Namibia to manage. Despite declines in albacore catches, South Africa remains the second largest producer of albacore in the South Atlantic Ocean. Other important fishing countries for albacore in the South Atlantic Ocean are Taiwan, Namibia, Brazil and Japan. Currently, South Africa is not limited to a yellowfin tuna quota in the Atlantic or Indian Ocean.

Over the years, two types of vessels have emerged in this fishery ranging from 10-28 m overall length (LOA), and ranging from R2-15 million in value. The first are large vessels (> 20 m) with onboard freezers, capable of spending 30 days at sea with a crew of 20 or more. The second type are smaller ice vessels that spend approximately 3 – 10 days at sea and carry less than 20 crew. Many of the vessels currently utilised are old, with an average age of approximately 30 years. Hence, the allocation policy would need to provide a conducive environment for the investment into new vessels taking into account the capital intensiveness of the fishery and the need to retain skilled crew. Some vessels of less than 10 m in length were allowed into the fishery as they had some tuna performance in the medium term rights allocation period. However, these vessels are

not deemed to be suitable for this fishery given the distances of the tuna fishing grounds from shore, the safety aspects and the limited tuna performance and job creation that these vessel types can provide.

4. The long-term rights allocation period

In 2005, the Department allocated 191 commercial tuna pole fishing rights, thereby authorising 198 vessels and more than 2 600 crew to target tuna using the pole method. Of the rights allocated, 54.06 % were allocated to blacks or black-owned and controlled entities. In terms of female shareholding, 29.19 % of rights were allocated to females or female-owned and controlled entities. Long-term rights were only awarded to legal entities, i.e. rights in this sector was not allocated to individuals. This sector is operated by entities that can be described as SMMEs. A significant number of right holders have performed poorly during this period with some right holders not applying for permits in some years. Furthermore, the Department is aware that a number of rights have been transferred in this sector either legally or illegally. Fronting is also an issue, which is of concern to the Department.right holder

5. Over-arching sectoral objectives

The objectives of allocating fishing rights in the tuna pole and line fishery are to:

- Promote meaningful transformation of the fishery by mitigating against 'fronting' and 'paper quotas';
- Promote economic viability through a multi-sector approach;
- Improve the quality of jobs through the promotion of permanent employment and allocation of a minimum of 70% of the rights to SMMEs;
- Provide an environment to encourage investment in new vessels;
- Provide fishing access to tuna for small-scale fishing communities;
- Improve South Africa's tuna catch performance;
- Ensure environmental sustainability of the fishery;
- Promote youth development;
- Improve RFMO engagement;

- Expand tuna fishing to non-traditional tuna fishing areas of the Eastern Cape, Northern Cape and KwaZulu-Natal.

6. Vision for the Tuna Pole and Line Sector

The Department envisages to award fishing rights for a maximum of 200 suitable tuna vessels in the tuna pole and line sector. Rights will be awarded to South African legal entities from around the South African coastal areas, with the main concentration in the Western Cape. Current right holders which failed to effectively utilise their right or which have transferred their right during the long-term rights period shall not be eligible for a new right. New entrants shall be considered particularly from small-scale fishing communities and areas outside of the traditional tuna fishing areas. Applicants would be allowed to apply with single or multiple vessels depending on the nature of access and investment in the vessels. All successful applicants shareholders shall be required to meet with the Department so that all shareholders can be verified before the right is awarded. This is considered an important step to mitigate against fronting and to promote meaningful transformation in the sector. The main target species shall be albacore and yellowfin , but the sector will also be allowed to target bigeye, skipjack and bonito, Other secondary species allowed would include snoek, greater amberjack, five fingers, angel fish, oceanic squid, and yellowtail (bag limit of 10 per person per trip inside the EEZ, but unlimited on the high seas). Access to southern bluefin may be considered should South Africa accede to the Conservation of Southern Bluefin Tuna and receive a larger country allocation. It is the Department's intention for the tuna vessels to be allowed access to fish for live bait. Moreover, it is the Department's intention to promote multi-sector involvement in the following compatible sectors namely: hake handline, squid, west coast rock lobster (offshore), hake longline, and swordfish longline. This multi-sector approach will be subject to applicants applying for rights in this sector, and in assessing the applications the Department would need to consider the area in which the applicant resides, and the availability of resources in the compatible sectors. In taking this approach the Department may allocate fewer rights overall so as to ensure that each right holder has meaningful access to resources so as to promote development and to create meaningful employment. This sector shall not be deemed suitable for the awarding of rights to recreational charter boat operators.

7. Duration of Rights

Having regard to –

- the long-term investment in new vessels right holder,

rights will be allocated for a period of fifteen years (01 February 2014 to 31 January 2029). The Department will regularly evaluate right holders against predetermined performance criteria (**see Paragraph 14 below**).

8. New entrants

Many existing right holders in the sector are under-performing, and there is room for a number of additional participants, particularly when considering small-scale fishing communities and applicants that would want to explore tuna fishing outside the traditional fishing grounds along the west coast of South Africa. Furthermore, the transformation profile of the fishery is lower than many other sectors and fronting appears to be a challenge. Therefore, it is accordingly anticipated that a number of new entrants will be allocated rights in the fishery.

9. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and previous right holder applicants will then be assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will be determined in order to select the successful applicants. A proportion of the TAE will be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

9.1 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 South African-owned entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973 (i.e. companies, closed corporations, PTY (LTD) and co-operatives). Natural persons (i.e. individuals or sole proprietors) will not be granted rights.
- (b) **Compliance:** Applicants, including their members, directors or controlling shareholders, that have been convicted of a serious transgression of the MLRA (without the option of the payment of a fine) will be excluded. Applicants, including their members, directors or controlling shareholders that have had any fishing right cancelled or revoked in terms of the MLRA will also be excluded. In addition, those right holders that failed to provide notification regarding change of ownership will also be excluded. Right holders who also regularly fail to submit their catch returns or which have misreported their catches will be excluded.

Minor breaches of the MLRA will adversely affect the evaluation of applications, as set out below.

- (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 10 below*).
- (e) **Non-utilisation:** Right holders that failed to effectively utilise their long-term commercial tuna pole right between 2007-2012 will not be re-allocated a tuna pole and line right.
- (f) **Reporting ability:** Due to the many reporting obligations that South Africa has to adhere to in terms of its engagement with tuna RFMOs it is imperative that all applicants demonstrate that they have permanent access to their own e-mail facility. This is the only efficient manner in which to obtain information from right

holders, which would need to be compiled and submitted to the tuna RFMOs on a regular basis. As such the Department may verify the functioning of the e-mails as part of the application process.

9.2 Balancing criteria

Although the following criteria will generally be applied to right holder applicants and new entrant applicants, the weighting that will be applied to each category will differ. 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

In the long-term rights application process 54.06% of right holders in this fishery were black-owned and 29.19% of right holders in this fishery were female-owned entities. It is the Department’s intention to allocate rights that would improve upon the current transformation profile in this sector.

Accordingly, 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 Department 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 youth, and participation in learnership programmes; and

- Corporate social investment.

(b) Investment in the fishery

Applicants will be evaluated by having regard to investments made in the tuna pole fishery.

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

- Investments in suitable vessels and other fixed assets. In respect of vessels, applicants will be rewarded for ownership and meaningful part-ownership of a vessel. Charter and catching agreements shall not be considered as having invested in the fishery.
- Investments in processing and marketing infrastructure. In this regard, the Department will reward right holder applicants that have invested in tuna processing and marketing initiatives. Right holders that have acquired rights through section 21 process shall not be considered as having invested in the fishery.

As far as new entrant applicants are concerned, the Department will consider what investments have been committed to in the form of vessels, provided that the vessel nominated is longer than 10 metres. New entrant applicants must also show whether they have invested in any processing and marketing initiatives, or whether they have access to marketing facilities.

(c) Fishing performance

Right holder applicants will be assessed by having regard to their South African tuna catch performance over the long-term period (2007-2012). In particular, right holder applicants that targeted traditional linefish stocks over tuna or which

predominantly fished in Namibia will be penalized.

Right holders which legitimately acquired rights during the long-term period through a section 21 application process shall only be able to claim the fishing performance of the entity from the time the section 21 application was lodged to the Department.

Vessel owners which were not right holders, but which is now applying for a right may not claim the performance of the right holder it was fishing for during the long-term period, and would be considered as a new entrant. New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to target tuna.

(d) Reliance on tuna

The Department will prefer applicants who rely on tuna pole fishing for a significant proportion of their gross annual income. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry will be penalised.

(e) Value-adding and enterprise development

The Department may have regard to enterprise development and the manner in which tunas harvested by right holders have been processed and marketed.

New entrant applicants will be required to demonstrate how they intend to market tuna. They will be scored on their fishing plans in particular.

(f) Local economic development

The Department will prefer those applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas such as

Cape Town.

The Department will favourably consider those right holder applicants that undertake to invest in and land their catches at smaller fishing harbours, such as Lamberts Bay.

(g) Jobs

The tuna pole fishery is a labour intensive fishery, employing about 2 700 crew. Although the Department recognises the seasonal nature of the tuna pole and line fishery, it does encourage the provision of permanent jobs or greater levels of job security.

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

- Full time employment;
- Medical aid and pension; and
- Safe working conditions.
- Establishment of Employee Trusts as a shareholding entity of the right holder.

(h) Non-payment of fish levies

The Department requires every right holder to pay a levy on the targeted fish landed. A number of right holders have either not paid their levies owed to the Department or have under-reported catches to, *inter alia*, avoid the payment of levies.

In the latter case, right holders that have been found to have under-reported catches will not be allocated a fishing right, or if allocated, the right will be revoked. In the former case (non-payment of levies owed to the Department), right holder

applicants will be penalised. However, should right holder applicants still qualify for a right, a fishing permit will not be issued until the total amount of levies payable (plus interest) has been paid to the Department.

(i) Compliance

Right holders, including their members, directors or controlling shareholders, who are being investigated for breaches of the MLRA may not be allocated a tuna pole fishing right until the outcome of the investigation is known.

Minor infringements of the MLRA, including its regulations, by the applicant, its directors or controlling shareholders, will be negatively scored.

9.3 Effort allocations

The Department will allocate fishing rights for a maximum of 200 vessels. Applicants may nominate one or multiple vessels. Applicants that nominate multiple vessels must either own the vessels or own substantial equity in the vessels.

10. Suitable vessels

A suitable vessel in the tuna pole and line fishery is a vessel that:

- has a minimum SAMSA overall length (LOA) of approximately 10 metres. Smaller vessels shall not be considered even if they have been used to catch tuna in the past;
- is certified by SAMSA to have a minimum operational range of 40 nautical miles (Category B vessel);
- has a functioning vessel monitoring system; and
- is equipped with freezer or ice facilities.
- Is a commercial tuna vessel as opposed to a luxury yacht, recreational vessel or recreational charter vessel.

In order to verify if the vessel meets the suitable vessel criteria applicants would need to submit

photos of the vessel as well as copies of the SAMSA registration certificate.

11. Multi-sector involvement

Right holders in the tuna pole fishery (including their controlling shareholders and members of their executive management team) will not be precluded from holding commercial fishing rights in other fishing sectors. However, the Department encourages right holders to apply for rights in compatible fishing sectors such as hake handline, hake longline, swordfish longline, west coast rock lobster (offshore), and squid so as to improve the economic viability of the combined fishing operations and to promote the creation of permanent jobs.

12. Application fees and levies

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

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

The annual levies payable with effect from 01 February 2014 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.

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 approach that

maintains or improves the health of an ecosystem and balances the diverse societal needs and values. This approach also defines the ecosystem in its broadest sense and includes ecological, social, economic and governance systems.

13.2 Consolidation of participants

Subsequent to the allocation of the eight-year commercial fishing rights in the tuna pole fishery, the Department will facilitate the consolidation of the right holders active in the fishery. Right holders may consolidate their respective business operations –

- Where right holders share the same shareholders, offices or management team; or
- Where smaller right holders opt to consolidate their business operations so as to further increase the transformation profile of this fishery.

Consolidation of right holders is, however, subject to the Department's approach to monopolies (**see paragraph 13.4 below**). In addition, consolidation will not be supported by the Department where it could result in the reduction of the transformation profile of the tuna pole and line fishery.

13.3 Vessels, fishing effort and quotas

The Department envisages to award rights for a maximum of 200 vessels. The Department may however award less than this in order to implement a multi-sector approach and thereby improve the economic viability of overall fishing operations. Quota limitations may be imposed in future should RFMOs indicate further declines in tuna resources and should South Africa receive reduced country allocations.

13.4 Monopolies

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

14. Performance measuring

The Department will institute a number of performance measuring exercises for the duration of the fishing rights. It is envisaged that performance measuring exercises will take place every three years.

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

- transformation;
- investment in new vessels and gear;
- job creation;
- youth development
- catch performance;
- compliance with applicable laws and regulations.

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

15. Observer programme

The Department may consider expanding its onboard observer programme to include the tuna pole and line sector and the right holders may 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, but subject to the requirements of any applicable regional fishery management organisation and will be subject to revision as and when it may be necessary.