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GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. 1722

28 November 2003

MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

DRAFT POLICY ON THE ALLOCATION OF COMMERCIAL FISHING RIGHTS IN THE LARGE PELAGICS FISHERY (TUNA LONGLINE AND SWORDFISH): 2003

The Minister of Environmental Affairs and Tourism has released a draft policy on the allocation of commercial fishing rights in the large pelagics fishery (tuna longline and swordfish) for public comment.

Members of the public are hereby invited to submit written comment on this draft policy. The draft policy is available at www.environment.gov.za. Hard copies are available at the –

- Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management, 7th Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore Cape Town; and
- Offices of Marine Inspectors along the coast.

Members of the public must submit written comment by no later than 16h00 on 05 January 2004. Comments should be titled as follows:

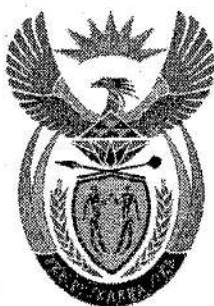
Commercial Large Pelagics Fishery: 2003
The Deputy Director-General: Marine and Coastal Management

Comments may be –

- Hand delivered to the offices of Marine and Coastal Management at the above address;
- Posted to Private Bag X2, Roggebaai, 8012;
- E-mailed to ashare@mcm.wcape.gov.za; or
- Faxed to (021) 425-7324.

Should you have any telephonic enquiries, please do not hesitate to contact the Department at (021) 402-3911. Your enquiries may be directed at Mr Phakamani Buthelezi (Chief Director: Resource Management).

FOR PUBLIC COMMENT



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT

POLICY FOR THE ALLOCATION OF COMMERCIAL FISHING
RIGHTS IN THE LARGE PELAGICS (TUNA LONGLINE AND
SWORDFISH) FISHERY: 2003

November 2003

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FOR PUBLIC COMMENT

1. Introduction

This draft policy on the allocation of commercial fishing rights in the large pelagics fishery is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department") for public comment.

Participation by South African fishers in the large pelagics fishery, and in particular the tuna longline and swordfish fisheries, was recently made possible by the decision of the Minister of Environmental Affairs and Tourism to not renew the international fishing licenses of Japanese and Taiwanese longline vessels to catch tuna and swordfish in South African waters.

The departure of the Japanese and Taiwanese longline vessels has now created an opportunity for South African fishers to invest in and develop a South African commercial large pelagics fishery aimed at the harvesting by longline of tuna and swordfish.

2. The Experimental Tuna Longline Fishery

South African participation in the tuna longline and swordfish fisheries has to date been limited to harvesting tuna longline on an experimental basis. The Department had in 1997 established this experimental fishery. Participants in the experimental tuna longline fishery currently consist of 30 permit holders.

The objectives for the experimental fishery were to –

- develop a performance history in tuna fishing so that Regional Fisheries Management Organisations would be more inclined to allocate country quotas to South Africa;
- develop local technological and fishing expertise in the tuna industry and;
- collect biological and fisheries data in order to provide a scientific basis for the management of a South African commercial large pelagics fishery.

To date, the Department has developed a performance history for both tuna and swordfish, but particularly for swordfish.

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3. Purpose and Objectives

The purpose of allocating commercial fishing rights in a tuna longline and swordfish fishery is to establish a South African commercial large pelagics fishery. The objectives of allocating such commercial fishing rights are as follows:

Consolidation of fisheries targeting large pelagic species

The Department intends to consolidate all commercial fisheries based on the targeting of large pelagic species. Accordingly, the shark longline fishery will no longer exist as a separate fishery with effect from 01 January 2006. Instead, prospective shark longliners will be asked to apply for a commercial tuna longline right.

Catch database

Swordfish and tunas are highly migratory species and managed by Regional Fishery Management Organisations ("RFMO's"). Country allocations are based on, *inter alia*, criteria such as catch history. A South African catch database for tuna and swordfish currently exists in an infancy stage and requires substantial development. In this way, South Africa would improve its position in respect of obtaining a larger country allocation from the applicable RFMO's.

Skills transfer

The allocation of commercial fishing rights in a large pelagics fishery is intended to benefit South African persons. The Department recognises that the experience and knowledge of the Japanese and Taiwanese cannot be ignored but is required to empower South Africans.

4. Duration of Rights

The Department intends to allocate commercial large pelagics fishing rights for a period of ten years. The reasons for advocating a long-term commercial right are as follows:

- The need to further develop a South African catch database for the tuna and swordfish fisheries; and
- Commercial harvesting of tuna by longline requires significant financial and research investments.

FOR PUBLIC COMMENT**5. Landing Sites**

All catches of tuna and swordfish by longline may only be landed at the following South African ports and fishing harbours:

- Cape Town;
- Port Elizabeth;
- East London;
- Durban;
- Richards Bay;
- Saldanha; and
- Hout Bay.

6. Total Applied Effort

The Minister of Environmental Affairs and Tourism has set a total applied effort ("TAE") of 50 rights, divided into 20 swordfish directed and 30 tuna directed rights. The Department intends to manage a commercial large pelagics fishery on the basis that each right holder will be entitled to use a maximum of one vessel.

7. Managing the Large Pelagics Fishery (Tuna and Swordfish)

Prospective applicants will be required to apply for either right to harvest tuna using the longline method or a right to harvest swordfish. Both rights will have a bycatch allowance for either swordfish or tuna, as the case may be. The Department intends to manage and regulate the commercial harvesting of tuna and swordfish in terms of this draft policy and ICCAT rules and/or decisions.

Right holders that target swordfish will not be subjected to a limitation on their tuna bycatches. Right holders that target tuna will be limited to a 15% swordfish bycatch. The Department will

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implement various other restrictions depending on the ocean (Indian or Atlantic) where fishing occurs.

8. Suitable Vessels and Investment in appropriate Gear and Equipment

A suitable vessel for this fishery is a South African flagged vessel with the following general specifications:

Tuna long line vessels

A suitable vessel for this fishery is a vessel with a minimum length of 24m and preferably with onboard freezing facilities.

Swordfish vessels

A suitable vessel for this fishery is a vessel with a minimum length of 18m.

Vessel Monitoring System

Applicants will be required to show that their nominated vessel has a functioning vessel monitoring system.

Foreign flagged vessels

The Department may consider granting a right to an applicant whose vessel is not a South African flagged vessel only in exceptional circumstances.

9. Nationality of Catches

Irrespective of the flag of the vessel used, all catches by a commercial large pelagics right holder will be accredited to the South African large pelagics catch database.

Irrespective of the flag of the vessel used by a commercial large pelagics right holder, that vessel will be subject to all applicable South African legislation and RFMO conventions.

FOR PUBLIC COMMENT**10. Observers**

Each right holder will be required to accommodate a certain number of Departmentally approved observers on its nominated vessel during each trip.

11. Suitable Applicants

Rights will only be granted to South African person¹ applicants that, as a minimum, –

- demonstrate a right of access to or ownership of a suitable vessel;
- has access to or owns the appropriate gear and equipment to harvest tuna and swordfish using the longline method;
- can demonstrate a degree of transformation in both its management and ownership;
- can demonstrate access to knowledge and the necessary expertise to efficiently and in an environmentally sustainable manner harvest both tuna and swordfish;
- is able to demonstrate access to or ownership of suitable processing facilities in South Africa, as well as access to suitable markets for the sale of tuna and swordfish; and
- has a history of adhering to international law and all applicable domestic laws.

The Department recognises that joint ventures between South African persons and non-South Africans may be necessary having regard to the history of these fisheries. The Department will favourably consider joint ventures –

- between historically disadvantaged persons and non-South Africans, alternatively previously advantaged persons;
- that can demonstrate how the HDP members of the joint venture would benefit in terms of skills transfers;
- where HDP's own a reasonable level of equity interest and are responsible for the management of the applicant;
- that demonstrate a right of access to or ownership of a suitable vessel;

¹ For a definition of a "South African person", see section 1 of the Marine Living Resources Act, 18 of 1998.

FOR PUBLIC COMMENT

- that have access to or that own the appropriate gear and equipment to harvest tuna and swordfish using the longline method;
- that can demonstrate access to knowledge and the necessary expertise to efficiently and in an environmentally sustainable manner harvest both tuna and swordfish;
- that are able to demonstrate access to or ownership of suitable processing facilities in South Africa, as well as access to suitable markets for the sale of tuna and swordfish; and
- whose directors, shareholders or members, as the case may be, can demonstrate a history of adhering to international law and all applicable domestic laws.

12. Multiple Fishery Applications

Prospective applicants will be entitled to apply for both a tuna longline right and swordfish right, provided that separate vessels will be used.

13. Application Fee and Levies:

An application fee of R6 700 will be applicable.

All catches landed will be subject to the payment of the following levies for the 2004 fishing season:

- | | |
|--|------------------------|
| • Swordfish, Yellowfin and Bigeye tuna: | R1 200 per ton landed; |
| • Southern Bluefin tuna: | R4 000 per ton landed; |
| • All other catches, including Albacore tuna and sharks: | R 107 per ton landed |

The levy will be payable on quarterly basis. Failure to do so could result in a right being suspended, cancelled or revoked.

FOR PUBLIC COMMENT**14. Compliance and Monitoring**

Catches will be monitored by the Department at all landing sites. Foreign flagged vessels will only be allowed to land catches in Cape Town, Port Elizabeth, Durban and Richards Bay. Fishery Control Officers will weigh the catch and submit the information to the Department. These officers will also verify the catch documents and certificates of origin for Swordfish, bigeye tuna and southern bluefin tuna. The officers will monitor permit holders in order to ensure that they comply with the conditions of their permit and enforce control over the vessels. The Department reserves the right to withdraw the permit in any case of transgression of permit conditions.

15. Anticipated Timeframes

The Department envisages the following timeframes leading up to the allocation of commercial large pelagics fishing rights:

- 05 January 2004: Deadline for submission of comments on this draft policy;
- 16 January 2004: Issue of the Government Notice inviting applications for commercial large pelagics fishing rights;
- 26 March 2004: Date for the receipting of commercial large pelagics fishing right applications; and
- 21 May 2004: Allocation of fifty 10-year commercial large pelagics fishing rights.

16. Submission of Applications

The Department will require applications to be submitted on stipulated application forms. Further detailed instructions regarding the Department's requirements for lodging applications will be published in a Government Notice in January 2004.

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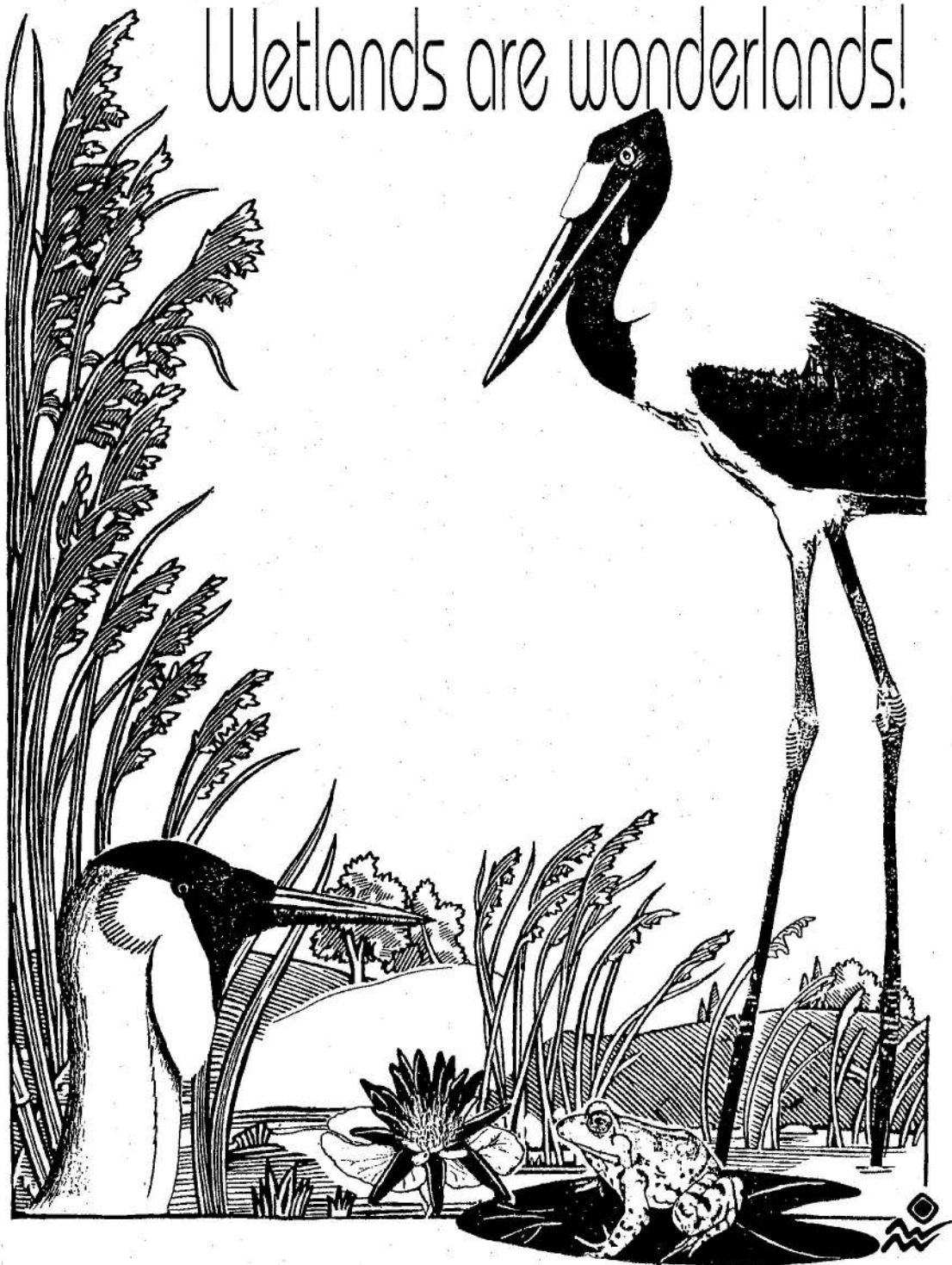
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