



**REPUBLIC OF NAMIBIA**

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**MINISTRY OF FISHERIES AND MARINE RESOURCES**

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**POLICY STATEMENT (GUIDELINES) FOR THE GRANTING OF RIGHTS  
TO HARVEST MARINE RESOURCES**

**AND**

**THE ALLOCATION OF FISHING QUOTAS**

**JULY 2009**

# **GUIDELINE ON THE GRANTING OF RIGHTS TO HARVEST MARINE RESOURCES AND ON THE ALLOCATION OF FISHING QUOTAS**

## **1. INTRODUCTION**

The purpose of these guidelines is to provide assistance to applicants in their quest to acquire rights to harvest marine resources and quotas in Namibian Marine waters. Notwithstanding the information given herein, each application will be treated on its merits in every respect.

## **2. BACKGROUND**

The Ministry of Fisheries and Marine Resources is empowered by the provisions in the Marine Resources Act (Act No. 27, 2000), to effect changes as necessary and required. The referred Marine Resources Act is the premise underlying fisheries management in Namibia as it states in Article 33 that harvesting in Namibian waters are only allowed under a right, an exploratory right or fisheries agreement.

During the year 2001, the policy regarding the granting of fishing rights and allocation of fishing quotas was reviewed and amendments were made. Extensive consultations were undertaken with the fishing industry; in addition inputs were solicited from the relevant Government institutions. This deliberate consultative process was imperative, as the Ministry aimed to ensure that the decisions that are taken on major policy issues within the Ministry take account of and are representative of the concerns of all stakeholders. The changes and amendments that were made are to the benefit of the fishing industry in terms of stability, security, planning and investment potential and growth prospects.

## **3. GRANTING OF RIGHTS TO HARVEST MARINE RESOURCES**

Granting of fishing rights is one of the current fisheries management systems in Namibia. The main purpose of these rights is to limit the number of entry and control fishing for resource management purposes. In addition the rights base system has also been used to promote Namibianisation of the sector. Once rights are granted, right holders' performance in relation to compliance to the policies, laws, regulations and conditions attached to the rights will be closely monitored and periodically evaluated to determine conformity.

The process of right granting consists of six (6) stages mainly: invitation to the public, preparations and delivering of applications, appointment of the **evaluation committee, evaluation process**, Cabinet endorsement, announcement and notifications.

## **Invitation**

By official notice in the Gazette, the Minister invites the public to apply for fishing rights. This is in accordance with the Marine Resources Act (Act No. 27, 2000, Article 33), which empower the Minister to do so.

Normally, the invitation runs for a period of one month. The invitation consists the name(s) of specie(s) for which right may be applied for; the criteria, which will be used during the evaluation of applications; the closing date; and the place where the applications can be forwarded.

## **Preparation and Delivering of Applications**

Applicants are expected to provide a detailed feasibility study, including market analysis indicating processing and marketing of fish and fishery products; financial analysis is stating the projected profitability of the venture; management analysis, describing the ownership, control and the management of the operations; and technical analysis giving details of vessel (s) and processing factory to be used.

Applications may be delivered through the post or by hand to the indicated venue not later than 17H00 of the deadline.

## **Evaluation Processes**

As empowered by the Marine Resources Act, 2000, the Minister may appoint an evaluation committee to evaluate the received applications.

The evaluation process may take one to three months depending on the number of applications received.

## **Cabinet endorsement**

After the evaluation process is completed, the results are forwarded to Cabinet for endorsement.

## **Announcement and notifications**

After Cabinet endorsement the Ministry of Information and Broadcasting make the announcement of the results in the media. The Ministry of Fisheries and Marine Resources then notify individual applicants about the result.

### **3.1. CRITERIA FOR GRANTING OF FISHING RIGHTS TO HARVEST MARINE RESOURCES AND ALLOCATION OF QUOTAS.**

According to the **Marine Resources Act, (Act No. 27 of 2000)** Article 33 section 4, the Minister may announce, by notice in the Gazette, a period during which applications for rights to harvest may be made. When considering applications for rights, the Minister may have regard to the following criteria:

- a) whether or not the applicant is a Namibian citizen;
- b) where the applicant is a company, the extent to which the beneficial control of the company vests in Namibian citizens;
- c) the beneficial ownership of any vessel, which will be used by the applicant;
- d) the ability of the applicant to exercise the right in a satisfactory manner;
- e) the advancement of persons in Namibia, who have been socially, economically or educationally disadvantaged by discriminatory laws or practices, which were enacted or practised before the independence of Namibia;
- f) regional development within Namibia;
- g) co-operation with the other countries, especially those in the Southern African Development Community (SADC); and
- h) the conservation and economic development of marine resources;

In addition to the above, the Marine Resources Act, No 27 of 2000, Article 33 (4) states that the Minister may also have regard for the following:

- (i) whether the applicant has successfully performed under an exploratory right in respect of the resource applied for;
- (j) socio-economic concerns;
- (k) the contributions of marine resources to food security;
- (l) any other matter that may be prescribed.

Furthermore, the right shall be valid (Marine Resources Act, 2000, Article 33 (5)):

- a) for such period as may be prescribed or if no period is prescribed, for such period as the Minister may specify; and
- b) For harvesting the marine resource for which it is granted and for such by-catch as may be prescribed or as the Minister may specify.

#### **4. NAMIBIANIZATION AND FOREIGN OWNERSHIP**

Namibianisation refers to the measures undertaken through the fisheries policy of Namibia, which is aimed at securing increasing benefits for Namibia, especially through onshore development. While priority will be given to Namibians and Namibian businesses, as far as granting of rights and allocation of quotas are concerned, scope is provided for foreign investment through joint ventures or wholly owned foreign ventures:

- a) Foreign investors who would like to participate in fishing ventures will be expected to cooperate with Namibian businesses through joint ventures. However, in exceptional cases rights may be granted to wholly foreign owned ventures:
  - where the foreign investment can be shown to contribute to economic and overall development in Namibia;
  - where there is an appropriate plan for Namibianisation of the business.
- b) Applications by new joint ventures should be based on the expectation that rights will be granted to the Namibian participants in the venture.
- c) For existing joint ventures, priority will be given to applications from the Namibian partners, considering the level of ownership and control of the Namibian interests. Rights may also be granted to the existing joint venture rightholders rather than to the Namibian partners, with the agreement of the Namibian, where it can be shown that the joint venture business and Namibia will benefit.

#### **5. TERMS OF HARVEST RIGHTS**

The duration of fishing (harvesting) rights was initially classified under three categories, namely 4, 7 and 10 years, which were maintained from January 1994 to May 2001. The structure of the duration of fishing rights proved to be a viable management tool and has been used as a fundamental yardstick for future development of the fishing industry. However the dynamics of the fishing industry has changed over the past years and the industry has become more mature and complex. International competition on the world markets is fierce and technological change and advancements are imminent requirements the industry is facing.

As a result, the duration of the terms of fishing rights has been changed from 4, 7 and 10 years to 7, 10 and 15 years respectively. An addition fourth category of a 20 years term of fishing right has been introduced.

## **5.1 The duration of rights and conditions:**

### **20 years**

This category was introduced in order to encourage employment creation in the fishing sector. The holders of this category will be equally required to comply with the operational fisheries laws and policies as stipulated in the Marine Resources Act. (ACT NO. 27 OF 2000).

- i) Any right holder that employs 5,000 Namibians or more on land and on a permanent basis qualifies for this term.

### **15. years**

- i) At least 90% beneficially owned by Namibians with significant investment in vessels or onshore processing facilities. For this purpose 50% ownership by the venture of a vessel or an operational onshore processing facility in the fishery for which rights are granted is considered a significant investment.

- ii) Fifteen-year rights may also be granted where Namibian right holders own a smaller share of a larger venture: and

- iii) Venture with more substantial foreign ownership which make or have the capacity to make, a major economic contribution and overall development in Namibia, For this purpose 500 Namibians employees working onshore in activities related to the fishery for which the rights are granted is considered as sufficient for a major contribution.

- vi) Fifteen year rights may be granted to smaller joint or wholly foreign owned ventures which make an innovative contribution to the development of the fishing industry in Namibia, such as developing new products or new export markets, and where a longer term right is necessary to secure the investment involved

### **10 years**

- i) At least 50% Namibian ownership in vessel or operational processing facility, in the fishery for which rights are granted;
- ii) Ventures with less than 51% Namibian ownership with onshore investments in the fishery for which rights are granted;

### **7 years**

- i) All new entrants and majority Namibian owned ventures having at least 50% ownership in vessels or an operational onshore processing facility in the fishery for which rights are granted, including ventures which only operate in the fishery involved by chartering of vessels or other similar arrangements, and

- ii) All other ventures with less than 51% Namibian ownership with onshore investments in the fishery for which rights are granted.
- iii) Rights may be granted for shorter terms in particular circumstances, such as in the early stage of development in newly acquired business ventures or a new fishery.

## **5.2 Other conditions**

- a) The terms of fishing rights may be extended and is subject to evaluation of the right holder's performance in terms of fulfilment of the criteria for longer-term rights, compliance with fisheries laws, policies and the condition attached to the right. For example, a seven-year right granted to a wholly Namibian venture may be extended to 15 years upon compliance.
- b) Furthermore, rights may be terminated or downgraded if a venture no longer fulfils the criteria under which the right was granted.
- c) Fishing (Harvesting) rights are not transferable.

## **6. EXPLORATORY RIGHTS**

Exploratory right for a fishery is not granted to more than one person as stipulated in the Marine Resources Act (Act No. 27 of 2000), article 34.

- a) Exploratory harvesting will only be granted on species that are not commercially harvested as a fishery and during the earlier stages of development of that new fishery so as to allow right holder to explore the commercial viability and biological sustainability of that marine resource,
- b) No exploratory right may be transferred to another person except with the approval of, and subject to the conditions determined by the Minister of Fisheries and Marine Resources.

## **7. ALLOCATION OF QUOTAS**

Quotas are portions of TACs, which are allocated to the right holders on fishing seasonal basis (fishing seasons may differ from one species to another).

The aim of allocating quota is to ensure fairness and equitable distribution taking into account the extent of onshore investments together with employment in the sector.

Quotas may vary over time with fluctuations in the TAC depending on the resources availability.

Quotas cannot be transferred permanently, except with the approval of the Minister.

## **8. Effort limitation in non-quota fisheries**

Fishing effort is regulated by measures such as limits on the number of vessels to be licensed in fisheries where Total Allowable Catches (TAC) is not determine e.g. large pelagic and Linefish fisheries.