

# Criteria for Granting Rights and Allocation of Fishing Quotas

By Peter Amutenya

In 1993 the Namibian government issued rights to exploit commercial fish species in its exclusive economic zone for the period starting January 1994 to the year 2000.

The Sea Fisheries Act (Act 29 of 1992) determines that a person who wishes to use marine resources on a commercial basis should be granted a right to fish the specific species he/she is targeting. Rights of exploitation are granted by the Minister of Fisheries and Marine Resources in accordance with Section 14(6)(a) to (e) of the Sea Fisheries Act.

The matters set out in this Section, include:

- whether or not the applicant is a Namibian citizen;
- where the applicant is a company, whether the beneficial control of the company is vested in Namibian citizens;
- the beneficial ownership of any vessel which will be used by the applicant;
- the ability of the applicant to exercise the right of exploitation in a satisfactory manner, and
- any other matter as may be prescribed.

Apart from these criteria, the Minister has to operate within the Sea Fisheries Regulations of 1993 and the *Policy statement on the granting of rights of exploitation to utilise marine resources and on the allocation of fishing quotas* of July 1993. The criteria are the following:

- the advancement of persons who have been socially, economically or educationally disadvantaged by discriminatory laws or practices which were enacted or practised before the independence of Namibia;
- regional development within Namibia;
- cooperation with other countries, especially those in the Southern African Development Community, and
- the conservation and economic development of marine resources.

The criteria were applied in 1993 when the Minister of Fisheries and Marine Resources allocated fishing rights for periods of four years, seven years, and ten years.

An exploitation right for a four-year period is granted to two categories of right holders. The first category is majority Namibian-owned operations which do not have at least 50% ownership in vessels or onshore processing facilities in the fishery for which fishing rights are granted, including companies which charter vessels or have made other similar arrangements to allow them to operate. The second category is for ventures with less than 51% Namibian ownership, which do not have significant onshore investments in the fishery for which rights are granted.

A seven-year fishing right is also granted to two categories of operations. The first is to majority Namibian owned companies having at least 50% ownership in vessels or onshore processing facilities in the fishery for which rights are granted. The second category includes operations

with less than 51% Namibian ownership in onshore investments in the fishery for which rights are granted.

Fishing rights are granted for a period of ten years to the following categories of ventures:

- 90% beneficially owned Namibian ventures with significant investment in vessels or onshore processing facilities. At least 50% ownership by the company of a vessel or an onshore processing facility in the fishery for which rights are granted, is regarded as a significant investment;
- Namibian right holders with smaller shares in larger ventures;
- majority foreign owned ventures with the capacity to make a major contribution to economic and overall development in Namibia. Normally, the onshore employment of 500 Namibians in activities related to the fishery for which rights are granted is regarded as a major contribution;
- smaller joint or wholly foreign-owned ventures which can 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 long-term right is necessary to secure the investment involved.

In particular circumstances, fishing rights are also granted for shorter periods. This is normally done in the early stage of development of a new fishery. In this regard, the Ministry has, since January 1994, considered several applications for experimental fishing for periods ranging from one to three years.

Fishing rights granted for four or seven years can be extended if the operations fulfill the criteria for longer-term rights. A number of companies have fulfilled these criteria since they were granted fishing rights three years ago and the Ministry has already adjusted the period for which the rights were allocated accordingly.

Rights may also be terminated or downgraded if a venture no longer fulfills the criteria under which the right was granted.

Fishing quotas are allocated in accordance with matters set out in section 14(6) (a) to (d) of the Sea Fisheries Act and in Regulation 2(2) of the Sea Fisheries Regulations, or paragraph 7(a) to (h) of the Policy statement of July 1993.

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