

**THE SOUTH AFRICAN MARINE
FISHERIES POLICY SINCE 1994**

BY

NONTUTHUZELO NOSISA MBANE

**DISSERTATION SUBMITTED
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE**

**MTECH: PUBLIC MANAGEMENT
DEGREE**

**IN THE FACULTY OF MANAGEMENT
AT THE
CAPE TECHNIKON**

SUPERVISOR: PROF WILLIAM FOX

NOVEMBER 2004

Declaration

I, Nontuthuzelo Nosisa Mbane, hereby declare that the contents of this dissertation represent my own work, and that the dissertation has not previously been submitted for academic examination towards any qualification.

Abstract:

Marine resources play a major role in sustaining the economy and social development of the nation and contribute to national economy, to employment and security of the local community. The South African fisheries management was conducted largely with political default. This denied most fishers access to marine resources. Since the democratic election of 1994, the government was left with the challenge to re-allocate rights in a way that would ensure that the under-presentation of historical disadvantaged individuals (HDI's) in the fishing industry would be corrected. The laws and regulations related to marine fisheries were also revised. The *Marine Living Resources Act, No. 18 of 1998* attempted transformation in the fishing industry but lacked clear guidelines which led to litigation and crises in the fishing industry as many fishers were unhappy with the whole process. Marine fisheries policy was established and published in 1997 to address those historical imbalances by introducing the fishing right system of allocating rights to represent the national demographics of the country. This report seeks to describe the theory of the South African fishing industry, policy developments and the current status of permit allocation in South Africa. It will also examine the effectiveness in the implementation of the marine fisheries policy for South Africa. It will focus on the distribution of marine resources for commercial fishing purposes.

Acknowledgements:

I wish to thank:

- **My supervisor, Prof William Fox for his guidance, encouragement and support**
- **My colleagues at work and in the faculty of management at Cape Technikon, for their unstinting help.**
- **My family and children for their love and patience.**

TABLE OF CONTENTS

| | |
|---|------------|
| DECLARATION | ii |
| ABSTRACT | iii |
| ACKNOWLEDGEMENTS | iv |
| CHAPTER 1 | |
| PROBLEM STATEMENT AND BACKGROUND FOR THE RESEARCH | |
| 1.1 Background | 1 |
| 1.2 Main Research Problem | 2 |
| 1.3 Literature review | 3 |
| 1.4 Research questions | 5 |
| 1.5 Objectives of the study | 5 |
| 1.6 Research design and methodology | 5 |
| 1.7 Delineation of the study | 6 |
| 1.8 The significance of the study | 6 |
| 1.9 Expected outcomes, results and contributions of the research | 6 |

| | | |
|-------------|----------------------------------|----------|
| 1.10 | Clarification of terms | 6 |
| 1.11 | Structure of the research | 8 |

CHAPTER 2

THE THEORY OF SOUTH AFRICAN MARINE RESOURCES: HISTORICAL OVERVIEW OF SOUTH AFRICAN FISHING, POLICY DEVELOPMENTS AND CURRENT STATE OF PERMIT ALLOCATION IN SOUTH AFRICA

| | | |
|------------|--|-----------|
| 2.1 | Introduction | 9 |
| 2.2 | Historical overview of South African fishing | 10 |
| 2.3 | South African marine fisheries | 11 |
| 2.3.1. | The apartheid legacy | 15 |
| 2.3.2 | Legal framework | 16 |
| 2.4 | Fisheries policy development process | 17 |
| 2.5 | Current status of permit allocation in South Africa | 19 |
| 2.5.1 | Allocation process | 19 |
| 2.5.2 | Appeal process | 22 |
| 2.6 | Conclusion | 23 |

CHAPTER 3

RESTRUCTURING IN THE SOUTH AFRICAN MARINE FISHERIES

| | | |
|------------|--|-----------|
| 3.1 | Introduction | 24 |
| 3.2 | Restructuring in the South African marine fisheries | 24 |
| 3.3 | Allocation process of 2001 | 27 |
| 3.4 | Black economic empowerment | 30 |
| 3.5 | Conclusion | 33 |

CHAPTER 4

OVERVIEW OF THE IMPLEMENTATION OF MEDIUM-TERM FISHING RIGHTS

| | | |
|------------|----------------------------|-----------|
| 4.1 | Introduction | 34 |
| 4.2 | Data presentation | 34 |
| 4.2.1 | Quantitative data analysis | 34 |
| 4.2.2 | Qualitative data analysis | 39 |
| 4.3 | Conclusion | 46 |

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions 47

5.2 Recommendations 49

REFERENCES 50

APPENDIX 53

Chapter 1: Background and problem statement for the research

1.1 Background

Fishing is an important activity along the coast of South Africa. It varies from subsistence, recreational and commercial fishing. The small-scale industry forms part of commercial fishing and this sector was never recognised before 1994. Fisheries are multi-objective activities serving a variety of social, cultural, political, economical and ecological goals. During the apartheid regime, the South African fishing industry and administration was mainly dominated by whites and large companies. The main problem was a lack of equitable and fair access to resources. Since there was uneven distribution of quotas in fishing in general, there was a need to develop fishing so as to allow full participation by all South Africans. According to Charles (2000:71), the effective management of fisheries is based on the achievement of societal goals and objectives through the use of appropriate policy and regulatory instruments. Following the elections of the first democratic government in South Africa in April 1994, many policies and laws were revised. The *Sea Fisheries Act, No. 12 of 1988* was reviewed and was replaced by the *Marine Living Resources Act, No. 18 of 1998*. The main objective of the new Marine Living Resources Act is the upliftment of impoverished coastal communities through improved access to marine resources and the sustainable management of resources through appropriate strategy.

Since fishing is a natural resource, it is managed by the national Department of Environmental Affairs and Tourism. The department, in support of the Reconstruction and Development Programme (RDP), has undergone several changes since the establishment of democracy to improve distribution and flow of sustainable benefit to a long-term. The new Marine Living Resources Act of 1998 introduced changes in the fisheries management administration system. It focuses on distribution of economic opportunities to a long-term. The process of developing marine fisheries was a way to ensure that marine living resources are accessible to every South African who makes a living from fishing and to give access to the previously disadvantaged groups. To fulfil such goals regulation was used as a key issue throughout the policy process. The Marine Fisheries Policy was developed to improve the distribution of resources. This research examines the changes of the distribution of resources and analyses them to determine the effectiveness of the implementation of the new Marine Fisheries Policy of South Africa.

1.2 Main Research Problem

In South Africa, access to the marine resources has not been fair and equitable. This resulted in the industry to face many problems which also threatened the sustainability of the resource itself. To address the problems of the industry, the marine fisheries policy was developed to transform the industry. Its implementation did not improve the situation and resulted in unrest among the fishers and a crisis in the fishing industry.

During the apartheid political system in South Africa, the previous laws and regulations were unjust. The fifty years of the apartheid era led to the situation where the political, economic and social differences between groups were largely demarcated along racial lines, including the fishing industry. The fishing industry according to Hersoug (1998:78) was left with the following features: unevenly distribution of resources between whites and blacks (defined to include Indians, Coloureds and Africans), skewed distribution of fish resources between small-scale and large-scale operators, totally uneven regional distribution of catching and processing possibilities and the fisheries administration that was dominated by white politicians and white administrators with little legitimacy among the black communities.

The challenge was to review the policies and regulations after the Government of National Unity came into power in 1994 to address the historical imbalances and to achieve equity within all branches of society including the fishing industry. Because of the inequality in the distribution of marine resources, many fishers had no access to the marine resources. There was a need to shift from the way fishing was managed so as to give access in the fishing industry that would broadly reflect the demographics of the country. The Fisheries Development Committee was developed and was tasked with developing a national policy for transformation and management of the fishing industry. After the publication of the *White Paper on Marine Fisheries Policy for South Africa*, the *Sea Fisheries Act, No. 12 of 1988* was reviewed and was replaced by the *Marine Living Resources Act, No. 18 of 1998*. The study will examine those changes and analyse them to determine the effectiveness of the distribution of resources with the implementation of the new Marine Fisheries Policy for South Africa. The study will focus on allocation of fishing rights for commercial operators.

1.3. Literature Review

A literature search has been done through the Internet for relevant data from published literature. Previous policies and current policies have also been accessed and described. The essential idea of fishery development is to initiate a new flow or improve an existing flow of sustainable benefits from the fishery system. Fishery development includes an effort to increase the sustainable benefits from the fishery through improvements in the system. The socio-economic well-being of fishers and coastal fishing communities depend on the availability of employment and distribution of income.

According to Hersoug and Holm (2000: 173), developments in South African fishing were done as a result of unrest among the fishers and fish workers over the then policy. They claimed the system to be corrupt and insensitive to the difficult situations of most coastal communities. They state that redistribution takes place through a political or administrative process. Only the state through its political force formally in charge of the administration could enforce a true reallocation of rights and quotas. The allocations were done through the new law. The reallocations were met with resistance within the new situation not least by the workforce of the established companies. The allocation process was therefore a careful balancing act where too much change would create havoc in the existing industry and too little change would threaten the legitimacy of the new fisheries policy. The whole process of reallocation of fishing rights seemed to be threatened by lack of administrative capacity to handle all applications, lack of oversight to check if the information provided by the new applicants was correct and the lack of a watchdog to check how new entrants were performing on the ground. They concluded that as the developments in South Africa clearly showed that a new fisheries policy was not enough; policy had to be implemented as well, putting mechanisms in place whereby the previously disadvantaged could work their way into the fishing industry.

Bailey (1999: 352) states that developments in fisheries were the result of a democratic political dispensation to secure the normalisation of our racialised social and economic situation and the alleviation of poverty. The Reconstruction and Development Programme was tabled by the government to address the country's social and economic problems through the upliftment of previously marginalised groups. The RDP clearly envisaged addressing areas of unequal economic opportunities such as access to government contracts and allocation of the concessions including access to marine resources. The developments are the biggest challenges of achieving an equitable distribution of rights and successful implementation of a right-based culture which is the system of quota management that authorises the right holder of a permit to enter into the fishery. The South African fisheries policy was developed in an effort to avoid previous allegations of corruption and to allocate fishing in a fair and equitable manner while taking into account the historical imbalances.

According to Isaac (1998:59) the new marine policy was developed to empower the previously disempowered but also to create more jobs and address the inequalities of the past, and the government is committed to policies that on the one hand sees to the basic needs whilst on the other hand strengthens the economy. Due to limited resources and wanting to address the injustices of the past, it became difficult to meet all the expectations of the formal industrial component, the informal component and the new entrants to the industry. Hence, the industry has to restructure on a basis of addressing the rising of expectations of full access rights to formerly oppressed and the force of globalisation. The process of Fisheries policy development committee (FPDC) to White Paper, to the proposed Bill and finally to the Act mainly dealt with the technicalities of the quotas, the mechanisms of transformation, and finally the Minister's scope of discretion. The issue of distribution is left entirely to the Minister.

As the Constitution of South Africa also guarantees the rights of all citizens, there was a need to address the imbalances of the past and to normalise the distribution of economic opportunities.

1.4. Research Questions

The study will answer the following questions:

1. What changes have been taken to develop fisheries in the South African commercial fishing?
2. Are resources in fishing industry equally and fairly distributed?
3. What is the current state of permit allocation in South Africa?

1.5 Objectives of the study

The study reviews the Marine Fisheries Policy of South Africa and attempts to determine the effectiveness of the distribution of marine resources with the implementation of this policy.

1.6 Research Design and Methodology

The study has used both qualitative and quantitative data collection methods. These methods are best for descriptive and explanatory research. The study consisted of a survey of sample of small-scale fisheries from Western Cape. *The investigation was made using the following methods:*

1. A literature search has been conducted to find out what work has already been done in the research and data was collected from the Internet throughout the study.
2. A survey questionnaire has been developed and circulated to fishers. The survey method has been used as it the best appropriate method that usually involves fewer participants and more accurate information can be collected (Welman & Kruger 1999: 147)

1.7 Delineation of the study

The research has concentrated on allocation of commercial fishing rights in South Africa targeting the previously disadvantaged groups in Cape Town in the Western Cape.

1.8 The significance of the study

Since there was uneven distribution of resources in South African fishing, it was necessary to restructure the fishing industry to address historical imbalances and to achieve equity within all branches of the fishing industry that would improve service delivery in distribution of marine resources. The Marine Fisheries Policy was founded on the belief that all natural marine living resources of South Africa, as well as the environment in which they exist and in which mariculture activities may occur, are natural assets and the heritage of all its people, and should be managed and developed for the benefit of present and future generations in the country as the whole.

1.9 Expected outcomes, results and contributions of the research

Conclusions have been drawn from the research findings. The results hopefully will be useful to fisheries managers to review the policy and take corrective measures that aim towards efficiency in generating wealth, in providing employment and in maintaining the sustainability of coastal fishing communities. This would ensure full ownership of marine resources by coastal fishing communities.

1.10 Clarification of terms

Commercial fishing

Commercial fishing as defined in the *Marine Living Resources Act, No. 18 of 1998* refers to the fishing activities that operate for profit and that earn income which is sufficient to meet and

exceed the basic necessities of life. Resources in this sector are managed by the total allowable catch (TAC) or by the total applied effort (TAE) that implies that fish can be caught in large quantities.

Fisheries policy development committee (FPDC)

Fisheries policy development committee (FPDC) refers to the committee set up in 1994 by the Minister of Environmental Affairs and Tourism to develop a new fisheries policy after consulting widely.

Historically disadvantaged individuals (HDI)

Historically disadvantaged individuals (HDI) refer to the persons who belong to the designated groups that suffered institutional racial discrimination before 27 April 1994.

Small-scale commercial fishers

Small-scale commercial fishers are distinguished within the commercial group by the size of their operations and the fact that the owner of the permit must personally be involved in the day-to-day running of the enterprise.

Subsistence fishing

Subsistence fishing refers to the fishing by less affluent people who personally harvest marine resources as a source of food or sell the remainder to meet the basic necessities of life. Subsistence fishers usually live within 200 km from the resource.

Sustainability

Sustainability refers to the need to manage resources for the long term for the benefit of current and future generations.

Total allowable catch

Total allowable catch refers to the maximum quantity of fish of individual species or groups of species made available during a period of time as prescribed for both recreational, subsistence, commercial and foreign fishing.

Total applied effort

Total applied effort refers to the maximum number of fishing vessels, the type, size and the engine or the fishing method applied.

1.11 The structure of the research

The research outline and structure is presented as follows:

- Chapter 1: deals with background of the study, problem statement, significance of the problem, objectives of the study, methodology, literature review and significance of the study.
- Chapter 2: deals with the theory of South African marine resources: historical overview of South African fishing, policy developments and the current state of permit allocation in South Africa for commercial fishing.
- Chapter 3: deals with the restructuring in the South African marine fisheries, allocation process of 2001, black economic empowerment and growth of SMME's.
- Chapter 4: presents the overview of the implementation of medium-term fishing rights allocation process
- Chapter 5: presents the conclusions and recommendations

Chapter 2: The theory of South African marine resources: historical overview of South African fishing, policy developments and current state of permit allocation in South Africa

2.1 Introduction

South Africa has embarked on drastic changes since the democratic election in 1994. Because of these political changes, many policies, laws and regulations were revised. These changes were in line with the Reconstruction and Development Programme (RDP) which aimed to mobilise the citizens and the resources of the country to eradicate the results of apartheid and to build a democratic, non-racial and non-sexist future. Marine fisheries developments were to rectify the wrong doings of the past and to ensure more equitable distribution of marine resources for the benefit of all South African citizens. The Marine Living Resource Act provided broad policy guidelines on fisheries management, access rights, transformation and empowerment issues with no clear criteria of these concepts. Since there was no clear fishing rights policy prior to 1994, both the industry and the departmental administrative processes interpreted the government's wishes and created policy through its own decision-making.

The results of this were litigation, controversy, appeals, negative publicity and the fishing industry was in crisis. To address that issue, the Department of Environmental Affairs and Tourism in August 2000, formulated the *Draft Discussion Document* for the fisheries management plan to improve the process of allocating fishing rights in which the objectives were to engage the whole fishing industry and to solve the problems. The *Second draft discussion document on improving the rights allocation process-stability, transformation and growth* was introduced in February 2001. The process of formulating new allocation fishing rights began. With the new policy, the non-whites were termed "previously disadvantaged groups". Since the non-whites were discriminated against under the apartheid system, in the new policy, race was used as one of the criteria in the allocation of resources so as to accommodate those groups that were prevented access during the apartheid regime.

2.2 Historical overview of South African fishing

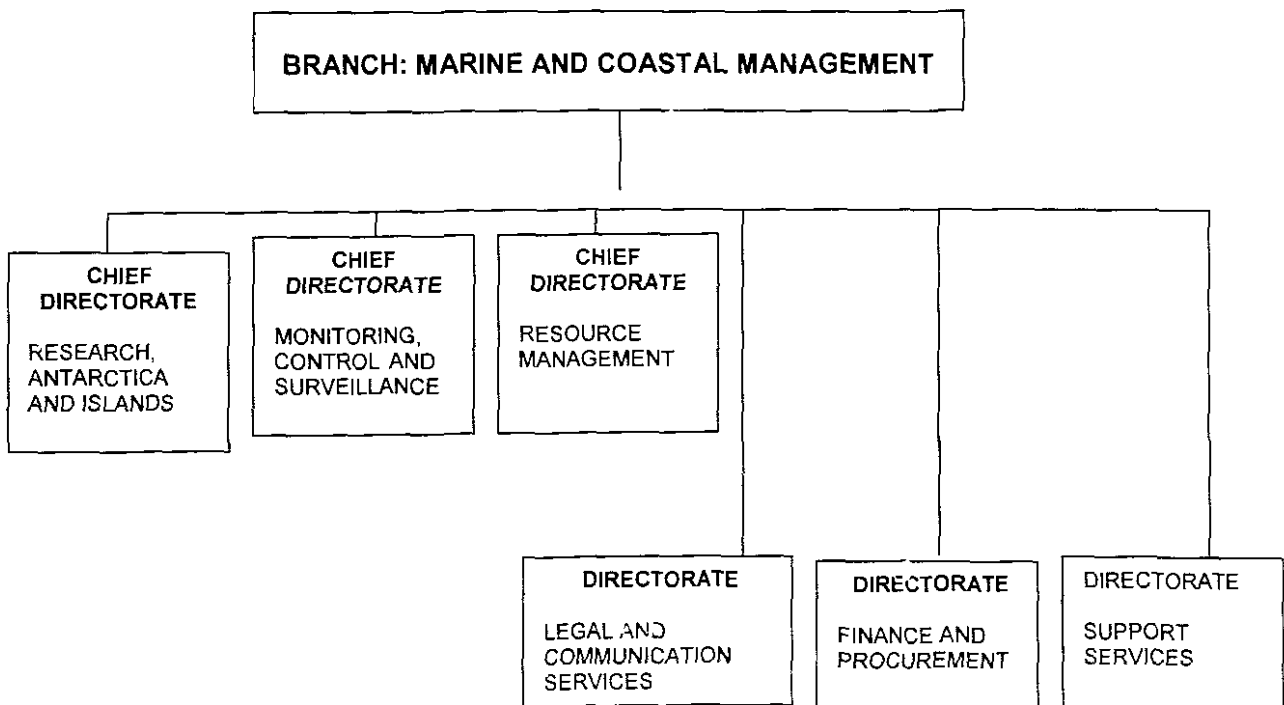
South Africa has been making use of the marine resources for at least 600 years (DEAT; Transformation and the South African Fishing Industry: 2004: 4). The division of Sea Fisheries was established in 1929. The branch has at various times in the past been under control of the ministers of Economic Affairs, Industry, Agriculture and Environmental Affairs. The Sea Fisheries branch became part of Department and Environmental Affairs and Tourism on 1 August 1982. It was responsible for all fisheries survey operations and mainly it consisted of scientists who were responsible to advise the Minister with regard to policy and formulation of laws and regulations on all matters concerning fisheries in South Africa. The only real limit on using the marine living resources during the early years was physical accessibility until the first legislation to protect these resources was promulgated in 1935 (*Sea Shore Act, No. 21 of 1935*). In scientific terms, the South African fisheries were not fare and South Africa had maintained its position as among the ten major fishing nations of the world. Before 1990, the allocation of fishing rights was carried out by the responsible Minister acting on the advice of officials stationed in Pretoria and Cape Town.

The administrative system was set to serve the predominantly white owners and large companies. The system was considered to be corrupt, lacked openness and this caused unrest among the fishers. The slight change began after 1992 when the independent statutory body, the Quota Board, was appointed to allocate fishing rights. The system used did not improve the situation as the Quota Board was criticised for being unfair and corrupt. The position was to remove the responsibility back to the state and the Minister to be responsible and accountable for the marine resources. Prior to 1994, there was no formal policy. Each fishery had to develop a strategy related to its needs. The democratic elections in 1994 brought changes by initiating a new fisheries policy to address redistribution of fishing rights in the fishing industry.

2.3 South African marine fisheries

Marine resources in South Africa are defined as national assets that need to be managed and developed for the benefit of present and future generations. As the Constitution of South Africa makes these resources a responsibility of national Government, they are controlled by the national Department of Environmental Affairs and Tourism in the branch of Marine and Coastal Management that is situated in Cape Town. The main purpose of the branch is to guide the development and conservation of the marine and coastal environment and to ensure sustainable utilisation of marine and coastal resources. Its responsibilities include administering the *Marine Living Resources Act, No.18 of 1998*. The Deputy Director-General is the head of the branch with three Chief Directorates which are each headed by Chief Directors.

Below is the current structure of Marine and Coastal Management: Cape Town:



The Minister as a policy maker is in charge of the marine resources in terms of the Marine Living Resources Act. He is responsible to set the total allowable catch (TAC) with the advice of Consultative Advisory Forum (CAF) for the determined period. The total allowable catch and the total applied effort are the most widely used methods to limit fishing to sustainable levels. They are both employed to manage the commercial fishing including small-scale commercial operators. Closed seasons can also be used to limit effort and to protect breeding individuals that are disturbed by the acts of harvesting.

There are four groups that participate in the fishing industry which are:

- Commercial fishers are fishers that operate mainly for profit and as individuals, groups or companies. The resources in this sector are managed by the TAC or TAE. The sale of goods takes place far from the site. The permit holders must have capacity to make use of the commercial fishing rights to avoid risk or paper quotas.
- Limited commercial fishers are fishers who were previously termed subsistence fishers who were harvesting mainly for sale but were never recognised before the new law was revised. This group desired to gain access to full commercial rights or the large-scale sector. They still need advice on how to apply for rights and assistance in developing the business skills and advice on obtaining the capital. They have the means to achieve equity and uplift less affluent people who already have skills and experience in fishing thus promoting the economy.
- Subsistence fishers: these are less affluent people who personally harvest marine resources as a source of food or sell the remainder to meet the basic necessities of life. Subsistence fishers usually live within 200 km from the resource. They use low technology gear. Subsistence fishing was never recognised prior the introduction of the new law.
- Recreational fishers are fishers who fish for sport or for leisure. The recreational fisherman is not allowed to sell any of his catch or to transfer his permit. He must also

abide by the rules set in regulations. All recreational permits are obtainable from the post office, at a fee applicable for each specific activity.

The South Africa's commercial fishing industry is worth over R2.5 billion in annual revenue and its coastal activities generate about 35% of the South Africa's GDP. (DEAT; Annual Review: 2001-2002:39). Although South African fishing has been affected by the past economic and social imbalances, its activities create significant employment opportunities in the communities in which they take place. Commercial fishing underpins the economy of many coastal areas and maritime countries. Recreational fishing can account for the large portion of the total harvest and can contribute significantly to the economic activity through being associated with and by stimulating tourism. Most of the industry is concentrated in four regions which are Western Cape, Eastern Cape, Kwa-Zulu Natal and Northern Cape. The most important species in terms of volume and value are indicated in the table below.

Table 2.1: Total nominal catch and estimated value of South African commercial sea fisheries 1997 (Stuttaford: 1999)

| Industry sector | Volume (tons) | Value (R'000) |
|-------------------------|----------------------|----------------------|
| Offshore trawl | 182321 | 989 744 |
| Inshore trawl | 151150 | 68 736 |
| Longlining | | |
| Pelagic | 4753 | 46 373 |
| Rock Lobster | 2570 | 439 224 |
| Squid | 3811 | 91 464 |
| Line Fish / Small netts | 17 221 | 128 239 |
| Abalone | 537 | 79 433 |
| Oyster | 708 | 10 142 |
| Mussels | 2145 | 27 885 |
| Prawn | 514 | 17 044 |
| Seaweed | 991 | 4 971 |
| Grand Total | 502 832 | 2070 283 |

The industry consists of about 22 different sectors of which the most important sectors are described below:

- Pelagic fishery is one of the major fisheries in economic terms. The quota system for pelagic stocks was introduced in South Africa in 1974. The quotas were given to factories and not to private and boat owners. Large companies control the pelagic fishery from production to retail trade. The pelagic sector generates employment for over one thousand workers at sea and four thousand workers on land (*White Paper Marine Fisheries Policy for South Africa: 1997*). Some of the catch is canned while a large part is used for industrial purposes to produce fish meal and fish oil.
- Mariculture or artificial raising of marine organisms is an effective means of enhancing the natural stock. It is important in providing food security, increasing employment opportunities and generating income. At present mariculture production in South Africa is the region of 4000 tons per annum. It requires high demand for coastal property, time and money which are very limited.
- Rock lobster fishery: Rock lobster is a high-value species, which is increasingly harvested for the export market. There are two types of rock lobsters that are most important in South African commercial fishing. They are West Coast Rock Lobster and South Coast Rock Lobster situated on West and South coasts. West Coast rock lobster harvesting started in 1870. During the 1950's up to 10 000 tons were caught annually while today it is influenced by slow growth rates and the catches average is 2 000 tons. The South Coast rock lobster fishery has been in existence since 1974.
- Hake fishery is economically the most prominent sector, currently worth about R1, 45 billion with foreign exchange earnings of the order of R750 million annually. It is the largest South African exporter of perishable frozen products.

2.3.1. The apartheid legacy

When democracy in South Africa was introduced in 1994, the fishing industry according to Hersoug (1998:78) was left with these characteristics:

- Uneven distribution of resources: In 1994 the total South African quota amounted to 512437 tons within the eight species regulated by the total allowable catch (TAC). Of these quotas 0.75 per cent was awarded to blacks. Of the 2700 registered commercial fishing vessels in South Africa, 7 per cent were owned by blacks while of 4000 fishing licences issued, approximately 6 per cent were issued to blacks. Even if this distribution was marginally improved in 1995 by some affirmative allocations, the general picture was relatively clear that blacks in the past had little or no direct access to the main resources in South African fisheries.
- Regional distribution: The regional imbalances also affected the fishing industry. Ninety-five percent of fishing is done on vessels owned and operated from the Western Cape particular in Cape Town. Most fisheries resources are historical developed in the Western Cape coast or small communities on the West Coast and are not related to apartheid patterns. During the apartheid era, the Western Cape fishers also exploited resources off the coast of other South African provinces. There are other provinces claiming a larger part of the pie, at least of the resources being caught in the inshore waters such as Kwa-Zulu Natal, Eastern Cape and Northern Cape. Eastern Cape, the poorest province in the country, has for example only had 6 per cent of the limited inshore trawl quota and 7 per cent of the total pelagic quota, and the rest remained with the Western Cape vessel and company owners.
- Imbalances between big and small companies: There was also an imbalance applied in the allocations between the small and big companies. Big companies controlled 88 percent of the hake quota, 85 per cent of the sole, 99 per cent of the anchovy, 80 per cent of the horse mackerel and pilchard 70 per cent of West Coast Rock Lobster and 84 per cent of the abalone. Using the 1994 figures, the calculations showed that the ten largest

companies were responsible for 70 per cent of the TAC, in pilchard 30 per cent, while five companies controlled 90 per cent of the abalone fishery. Similarly three companies controlled 82 per cent of the South Coast Rock Lobster fishery (White Paper: 1997).

- Fisheries policy and administration was dominantly for the white industry: The administrative system was another factor that affected the fishing industry. The administrative system at that time was mainly dominated by whites. The system concern was mainly on marine research and advice to the Ministry with no interest on black community needs. The whole process of allocating quotas and licences was considered corrupt and the administration had been liable to political pressure from the established companies and right holders. There was a lack of trust in the administration, their regulations and their officers, a fact that made poaching more reasonable and acceptable at grassroots levels.

2.3.2 Legal framework

The first legislation regulating activities on the coast was the *Sea Shore Act, No. 21 of 1935* that designated the Governor-General as the owner of coastal areas and it also provided for the grant of rights in respect of the sea-shore while securing the public's rights of access to the sea-shore and the sea. A more comprehensive law framed to protect marine resources was the *Sea Fisheries Act, No. 10 of 1940* that replaced the Sea Fishery Act of 1935. The Sea Fishery Act of 1940 was the first statute to regulate sea fisheries through national legislation, provincial ordinances and local authority. It aimed more at the marketing aspects of sea fisheries than conservation.

The Sea Fishery Act of 1940 was followed by the *Sea Fishery Act, No. 58 of 1973*. The Sea Fishery Act of 1973 provided for the establishment of various councils and committees to assist in formulating fisheries management advice. The most important body was the Sea Fishery Advisory Council to advise the Minister of the Department of Environmental Affairs regarding formulation of policy, laws and regulations of all aspects of the marine fisheries of South Africa including international fisheries obligations. Governmental concerns in the fishing industry was shown by the appointment of a Parliamentary Commission of Inquiry in 1979 into certain aspects of the conservation and utilization of living resources and by the transfer of control over fisheries

matters from the Department of Economic Affairs and Industries to the Department of Agriculture and Fisheries in April 1980 and then to the Department of Environmental Affairs and Tourism. The Diemont Commission in 1986 was appointed and it recommended that allocations of rights be removed from the political arena to an individual statutory body. The Quota Board was appointed to be responsible for the allocations of quotas within the total allowable catch set by the Minister to the holders of exploitation rights in the fishing industry. The chairman of the board was required to have a legal background and members that served to have no interest in fishery in terms of the Act.

In 1988, the White Paper was published and the *Sea Fishery Act, No. 12 of 1988* promulgated to replace the Sea Fisheries Act of 1973. The development in management and administration of fisheries in South Africa were shown by the establishment of the Sea Fishery Act of 1988 that came into effect in 1989 and was implemented in July 1990.

The Sea Fishery Act of 1988 was amended in 1990 (*Sea Fishery Amendment Act, No. 98 of 1990*) and in 1992 (*Sea Fishery Amendment Act, No. 57 of 1992*) to alter certain definitions and to substitute other paragraphs such as the powers of the Minister to determine general policy regarding the South African living marine resources. The Sea Fishery Act of 1998 was replaced by the *Marine Living Resources Act, No.18 of 1998*. The Marine Living Resources Act of 1998 was also amended in 2000 to give the Department the legal means to suspend the annual rights allocation process and to roll over all fishing rights held in 1999 to 2000. This gave the department an opportunity to plan for the allocation of medium-term and long-term fishing rights. The new Act allowed that fishing rights be granted for a period of up to 15 years.

2.4 Fisheries Policy Development Process

In an attempt to achieve a new national policy acceptable to all, a Fishery Policy Development Committee (FPDC) was set up by the Minister of Environmental Affairs and Tourism on 7 October 1994 to formulate the policy. This was as a result of unrest among fishers and fish workers over the fishing rights allocation system which was claimed to be corrupt and also because of the political changes to address the historical imbalances of the past.

These are the main objectives and principles of the FPDC:

- Optimisation of long-term social and economic benefit to the nation: Since the natural resources of the land and sea are natural assets and heritage of its people they should be managed to the benefit of the country as the whole for present and future generations of the whole country.
- Management and development of fisheries should in all material aspects comply with the principles of the Constitution of South Africa and the long-term objectives and principles of the Reconstruction and Development Programme (RDP)
- Management of marine resources in terms of decisions should be open and transparent in all aspects.
- Access to and allocation of marine resources should be fair and equitable to include those who have been denied access rights previously.
- The development of a new fisheries policy in which all sectors of fishing industry should participate

The Working Committee was formed consisted of 5 representatives from each of the 13 different sectors of the fishing industry. The FPDC comprised of 70 members. An Access Rights Technical Committee was also appointed in 1996 to ensure fair and equitable access to fisheries and long-term sustainability of resources. The FPDC requested all stakeholders to submit their ideas for a first integrated document. Two workshops were held to find some common ground. The meetings were open for interested parties to participate in the Committee's discussions. Drafts were widely circulated for comments and broad consultations. The final document was handed over to the Minister in 1996 in which information contained was used to write the White Paper on Marine Fisheries Policy that laid the foundations for the new law. After the contents of the Bill have been discussed in Parliament in 1997, the *Marine Living Resources Act, No. 18 of*

1998 was passed. The *Sea Fishery Act, No 12 of 1988* was replaced by the new law and was invalid after March 1999. In August 2000, the *Draft Discussion Document* was formulated for the fisheries management plan to improve the process of allocating fishing rights in which the objectives were to engage the whole fishing industry and to solve the problems. In 2001 the new system of allocating fishing rights was established and implemented.

2.5 Current status of permit allocations in South Africa

A new system of allocating fishing rights has been established for medium and long-term rights. The Minister is assisted by staff in office of the Chief Directorate of Resource Management and by the independent bodies, Rights Verification Unit and the Advisory Committee.

2.5.1 Allocation Process

For most commercial fisheries, the next round of fishing rights allocation will begin in 2005. The Minister of Environmental Affairs and Tourism calls for applications for fishing rights by announcing the opening of the rights application process in the Government Gazette. The application forms and policy guidelines are made available at the coastal offices of the department.

The applications for commercial fishing rights are lodged with the Rights Verification Unit (RVU), an independent body which performs many duties that include:

- Receiving, filing and storing every application
- Capturing data per sector
- Verifying the information supplied by the applicants
- Investigating specific applications at the request of the Minister

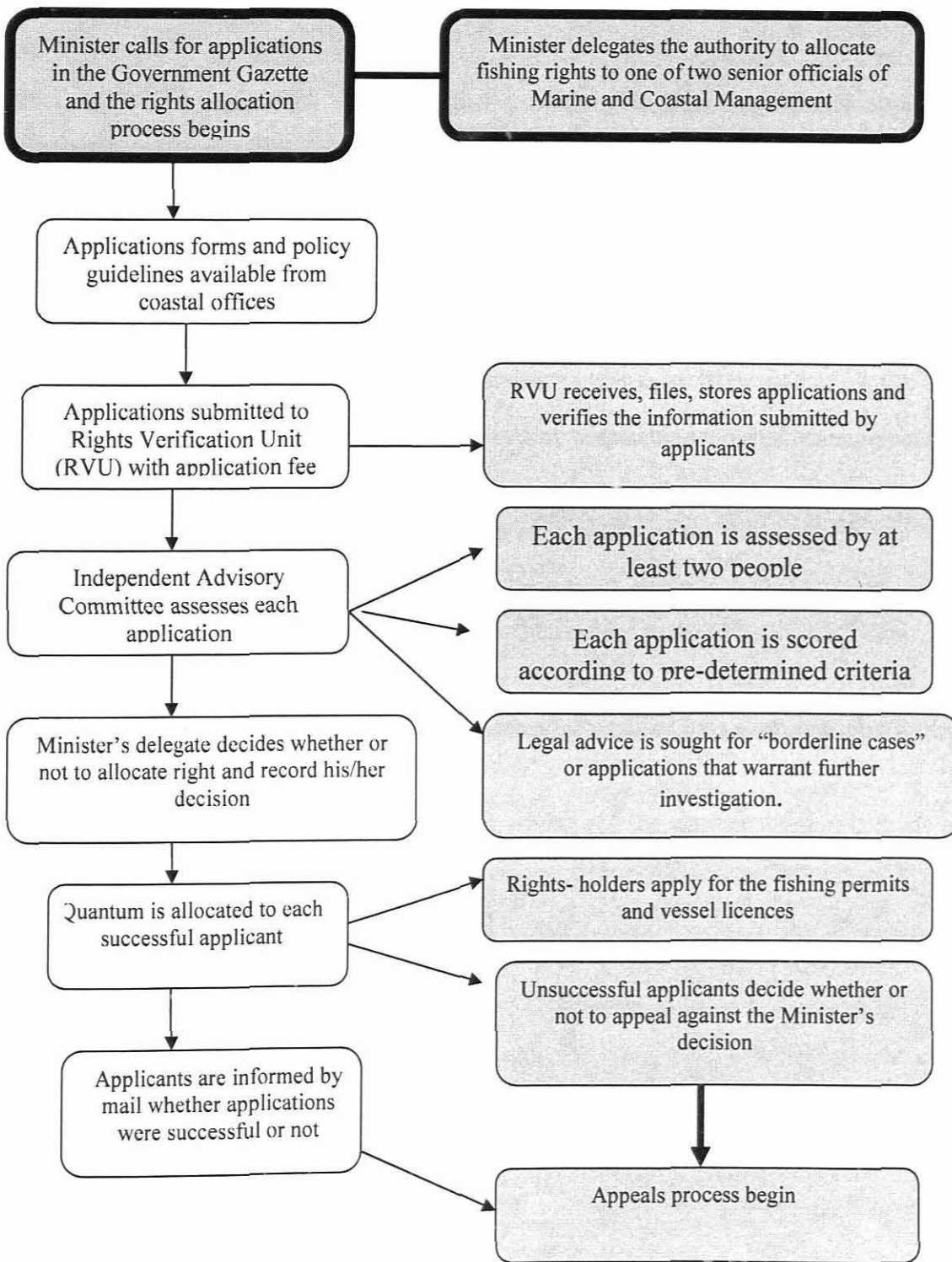
Application fees differ according to the type of application made. An application fee for a full commercial fishing right is R6700.00, while the application fee for limited commercial rights is R530.00. The fees are determined by the Minister with the view to covering the costs of the allocation process. A set of policy guidelines are provided that describe the criteria that will be used by the Advisory Committee when assessing each application. The criteria include, black economic empowerment, employment equity, investment and experience in the fishing industry.

Each application is assessed by at least two members of Advisory Committee. The committee consists of skilled professionals who have no interest in the fishing industry. Members of the committee work in teams assessing applications on a fishery basis.

The Advisory Committee presents a written recommendation to the Minister's delegate who makes the final decisions whether or not to allocate a right. The delegate records his or her decision in an official document, a copy of which is later circulated to the website. Records of decisions are made available at the coastal offices of the Department that provides reasons why applications were accepted or rejected.

Applicants who are awarded fishing rights are required to purchase a fishing permit or vessel licences from the branch before they commence fishing. The fishing rights registers are kept for each fishery and a copy is made available for public scrutiny at no cost. Applicants are advised of the decisions and those who are not satisfied with the decisions made can apply for appeal against the Minister's decisions.

Table 2.2: Structure of DEAT's established system for allocating fishing rights



Source: (DEAT; 2002:4)

2.5.2 Appeal Process

At least 10% of the total allowable catch in each fishery is reserved for appeals against the Minister's decisions. In terms of the Marine Living Resources Act, applicants who are not satisfied with the allocation of commercial fishing rights have the right to appeal against the Minister's decisions. The Act requires the Minister to personally allocate the quantum that is reserved for the appeals process. Currently, there is no charge for submitting an appeal.

- An appeal is in a written form by the applicant with details of the appeal and supporting reasons to be considered.
- The applications for appeals are received by Marine and Coastal Management.
- Only one application is submitted from each applicant for fishing rights.
- A person submitting the appeal must be authorised to do so by the applicant.
- All documents attached to the appeal must be certified by a Commissioner of Oaths.
- Applicants are informed of the appeal results and the summary report is made available to the applicants on request.

2.6 Conclusion

The theory of South African marine resources, its historical overview and policy developments have been described. The current status of permit system in South Africa has also been described. The following chapter will focus on restructuring in the fishing industry. It will start with the transformation of fishing right since 1994 until 2001, black economic empowerment and the growth of SMME's will also be discussed.

Chapter 3: Restructuring in the South African marine fisheries

3.1. Introduction

For years, the allocation of fishing rights in South Africa had been managed by allegations of racism, nepotism and corruption. To address the challenges facing South African fishing industry, the existing system of allocating fishing rights was revised to redistribute the marine resources. The idea was to ensure fair and equitable access to fisheries and long-term sustainability of resources. Until 2000, fishing rights continued to be allocated on an annual basis, a situation that created uncertainty in the fishing industry and undermined the government's effort to support black owned, small, medium and micro enterprises. According to the recommendations of the FPDC the implementation process should consist of two phases. The first phase was to effect the changes without delay. With implementation of the second phase, it was suggested that the existing allocation system be restructured to develop a new long-term rights allocation system.

3.2. Restructuring in the South African fisheries

Restructuring in fishing began with the *Marine Resource Act, No. 18 of 1998* which introduced significant changes to the South African management system and statutory framework. With the political change many people expected that there would be more new entrants into fishing industry. Because of this interest in fishing many applications were received causing more pressure on the Department.

The degree of transformation that has taken place in the South African fishing industry since 1993 to 2000 can best be illustrated by the new entrants in the deep sea hake that increased from 31 in 1994 to 105 in 1999 due to new participants in long-lining. In West Coast rock lobster the number of new entrants increased from 93 to 192. In squid, abalone, line fishing and pelagic the increase was in the number of operators. In 1993, new entrants in hake sector received on average a quota of 814 t while in 1998 the average quota was down to 215 t. In 1998:99 Season, West Coast rock lobster doubled in size to that which was allocated in the 1993-94 season. The annual

rights allocation process during 1999/2000 for all fishing rights was held and extended to year 2000 to provide time to organise and create a new management system in the allocation of new fishing rights.

Table 3.1: Hake quota allocation 1993-2000

| Year | Number of participants | New entrants | Exit | Average new entrants (t) | New % entrants | Total TAC (t) |
|------|------------------------|--------------|------|--------------------------|----------------|---------------|
| 1993 | 33 | 5 | 0 | 814 | 2,77 | 14700 |
| 1994 | 31 | 0 | 2 | 0 | 0 | 148 000 |
| 1995 | 31 | 1 | 1 | 372 | 0,25 | 148 000 |
| 1996 | 42 | 14 | 3 | 367 | 3,40 | 151 000 |
| 1997 | 57 | 16 | 1 | 265 | 2,76 | 153 702 |
| 1998 | 57 | 0 | 0 | 0 | 0 | 151 000 |
| 1999 | 105 | 52 | 4 | 215 | 7.66 | 146 120 |
| 2000 | 41 | 1 | ? | 750 | 0,62 | 121 210 |

Stuttaford (1994- 1999) in Hersoug & Holm: FAO Fisheries Technical Paper: 404/2:181

Compiled by D Baron

Table 3.2: West Coast rock lobster allocations 1993- 2000

| Year | Number of participants | New entrants | Exit | Average new entrants (t) | New % entrants | Total TAC (t) |
|---------|------------------------|--------------|------|--------------------------|----------------|---------------|
| 1993-94 | 93 | 46 | 2 | 3031 | 6.34 | 2200 000 |
| 1994-95 | 99 | 7 | 0 | 3761 | 1.32 | 2000 000 |
| 1995-96 | 104 | 8 | 3 | 3538 | 1.89 | 1500 000 |
| 1996-97 | 145 | 43 | 2 | 3720 | 9.41 | 1700 000 |
| 1997-98 | 173 | 36 | 8 | 5429 | 10.18 | 1920 000 |
| 1998-99 | 192 | 22 | 3 | 7537 | 9.32 | 1780 000 |
| 1999-00 | 187 | 14 | 19 | 3571 | 3.10 | 1613 477 |

Stuttaford: (1994- 1998): Compiled by D Baron

In 1996 the state of access to fishing rights in some fisheries is illustrated below:

Table 3.3: quota distribution in some key fisheries in South Africa in 1996

| FISHERY | TAC (TONS) | NUMBER OF QOUTA HOLDERS | % OF TAC BY LARGEST QUOTA HOLDERS | % OF T AC BY LARGEST QUOTA HOLDERS | % OF TAC BY LARGEST QUOTA HOLDERS |
|-----------------------------|-----------------------|--|--|---|--|
| Hake | 148 300 | 49 | 72 | 82 | 87 |
| West Coast rock lobster | 1 500 | 104 | 23 | 51 | 73 |
| South Coast rock lobster | 427 | 6 | 82 | 100 (6 all) | - |
| Abalone | 615 | 16 | 75 | 95 | 100 (6 all) |
| Pilchard | 105 000 | 59 | 30 | 55 | 63 |
| Anchovy | 70 000 | 18 | 36 | 79 | 100 (18 all) |
| Sole | 872 | 11 | 71 | 100 (11 all) | - |

Source: Sea Fisheries: Marine fisheries policy for South Africa: 1997

3.3 Allocation process: 2001

The process of allocating new medium-term fishing rights, which began in July 2001, was to affect further transformation with the implementation of the new policy. The fishing rights were granted for a period of four years for commercial fisheries and two years for the troubled abalone industry and fifteen years for the mariculture sector and fish processing establishment.

For the first time, the government published a set of policy guidelines that were circulated with the rights application form. Applications were invited for 22 sectors in the Government Gazette. An application fee was increased from R100.00 to R6000.000 for full commercial and R500.00 for the limited commercial. An increase in application fees was done to exclude paper quota holders to allow only those people who are genuinely interested in the industry and to recover costs for the newly established out-sourced adjudication process.

In total, 5 496 applications for commercial fishing rights were received including late applications. The total number of applications received excluding late applications was 5 230. Of these 45% were for full commercial fishing rights while 55 % were for limited fishing rights. The following table represents the number of applications received per sector.

Table 3.4: Total number of applications received in 2001

| FISHERY | TOTAL RECEIVED | LIMITED COMMERCIAL (%) | COMMERCIAL (%) |
|--------------------------|-----------------------|-------------------------------|-----------------------|
| Abalone | 540 | 84,6 | 15,4 |
| Fish Processing | 362 | 0 | 100 |
| Hake (deep sea) | 110 | 0,9 | 99,1 |
| Hake (handline) | 251 | 5,6 | 94,4 |
| Hake (longline) | 340 | 0,9 | 99,1 |
| Hake /Sole | 30 | 0 | 100 |
| Horse Mackerel | 24 | 0 | 100 |
| Traditional linefish | 711 | 71,6 | 28,4 |
| Mariculture | 38 | 0 | 100 |
| Small nets | 136 | 97,1 | 62,9 |
| Beach seine nets | 48 | 27,1 | 72,1 |
| Oysters | 41 | 85,4 | 14,6 |
| Pelagics | 185 | 0,5 | 99,5 |
| Prawn(offshore) | 4 | 0 | 100 |
| Prawn (inshore) | 3 | 0 | 100 |
| Seaweed | 21 | 4,8 | 95,2 |
| Shark | 54 | 0 | 100 |
| South Coast rock lobster | 38 | 18,4 | 81,6 |
| Squid | 163 | 3,7 | 95,7 |
| Tuna (handline) | 160 | 3,8 | 96,3 |
| West Coast rock lobster | 1959 | 81,8 | 18,2 |
| White mussels | 12 | 100 | 0 |
| Total | 5 230 | | |

Source: DEAT: RVU

Fishing rights were granted to existing rights holders and to new entrants for various sectors. A scoring system was used to rank applications. Applications were scored against one another in accordance with the clearly defined assessment criteria set on policy guidelines. This greatly contributed to fairness and transparency of the allocation process.

Applicants were kept informed of the department's progress through-out the allocation process. Regular news bulletins were circulated to the fishing industry and for the first time the department contracted an independent company to manage a whistle-blowing service called Tip-Offs Anonymous. Through this service, members of the public can anonymously report any malpractices by fishers, either companies or individuals, such as over-fishing and poaching as well as the department's staff members suspected of corruption. After announcement of allocation results, the review book with a summary of decisions taken was issued for public scrutiny and copies were available on request. Applicants also have access to information regarding their applications. This also contributed to openness and transparency of the system.

Linefish fishing rights were issued for the first time and these rights replaced the exemption permits that were used by the line fishers. The reason of allocating the linefish fishing rights is to ensure the sustainable and optimal use of the living marine resources and to promote the objectives of the Marine Living Resources Act and to transform the fishery.

Limited commercial fishing rights were introduced to the commercial fishing industry. The limited rights replaced the subsistence fishing rights that previously were allowed to the less affluent people to catch and only sell four rock lobster or abalone a day. Limited commercial fishing rights were as the result of the development of small fishing businesses in disadvantaged coastal areas or communities.

3.4 Black Economic Empowerment

Black economic empowerment is an integrated and coherent socio-economic process within the context of the country's national transformation program (RDP) aimed at addressing the economic imbalances of the past by seeking to substantially and equitably transfer and confer the ownership management and control of South Africa's financial resources to the majority of its citizens. It ensures broader meaningful participation and directly contributes to the economy of the country. Because of high levels of unemployment in South Africa and the fact that it is the black population that suffered the highest levels of unemployment, the fishing industry is seen as one way of addressing unemployment.

The new medium-term fishing rights allocations process granted in 2001 for four years has revealed a high degree of black economic empowerment in terms of both asset ownership and employment equity. The degree of transformation that has taken place in the South African fishing industry was greatest in the hake deep sea trawling industry. Less than 20 years ago, the total allowable catch for hake was shared among only six white companies. Today, over 73% of right holders in the hake trawl fishery are majority owned by historically disadvantaged individuals (HDI).

Other fisheries with indicators on transformation are:

- Hake longline - 80% majority HDI's owned. 74 % majority HDI managed
- Pelagic - 76% majority HDI's owned. 56% majority HDI managed
- Hake Trawl – 73 % majority HDI's owned. 55 % majority HDI managed
- West Coast Rock Lobster – 67 % majority HDI's owned. 38% majority HDI managed
- Chokka squid – 33 % majority HDI owned. 33 % majority HDI managed
- Shark longline – 24 % majority HDI owned. 29 % majority managed.

Promotion of small and medium enterprises is a strategy to promote employment and to increase economic growth. Growth of small, medium and micro enterprises in the fishing industry was one of the strategies used to upgrade the subsistence fishers who already have skills but required access to commercial fishing. The allocation of fishing rights on a limited scale was part of a strategy by the government to encourage the development of SMME's and meaningfully address the legitimate demands of disadvantaged fishers who depend on inshore resources such as West Coast rock lobster and abalone for their livelihood. Almost all these fishing rights were granted to HDI's. Employment equity in the West Coast rock lobster fishery was an area in which there was much room for improvements. Chokka squid and shark longline fishers were small fishers that were economically not strong and attracted few black applications and the degree of transformation was not achieved.

For some of the fisheries the allocations were as follows:

- In West Coast rock Lobster fishery: The total allowable catch was set at 2.126 tons, and out of a total of 1,959 applications, rights were granted to 189 applicants in the commercial sector and 321 in the limited commercial sector. It was decided that the subsistence fishing sector would be phased out, and investigations were initiated to evaluate the possibilities of opening the area, East Hangklip, to commercial exploitation.
- Hake longline: the TAC was set at 10.840 tons and 115 applicants out of a total of 290 applications were successful of which 60 per cent are small, medium and micro enterprises (SMME's).
- Hake deep-sea: The TAC was retained at 1 38.495 tons and no new entrants, out of 56 potential applicants were successful.

- Squid: change in management approach was introduced to limit the overcapacity of fishers, vessels, and right holders. The total applied effort was set at 2,386 persons on board the vessels for which permits are issued, with additional restrictions according to size of vessel, ranging from 7 persons on a ski boat up to 26 persons on the vessels larger than 19 metres.
- Sharks: TAE was set at 23 vessels with one vessel per right holder. Out of these two right holders are new entrants.
- Pelagic: new approach was introduced with rights based on a single percentage of a combined anchovy/pilchard fishery with the trade- off decision left to the rights holder. Out of 187 applications, 91 were successful.

Applicants were given the right to appeal against the outcomes of their applications. More than 1,500 appeals were received and the results of successful appeals process in some fisheries were as follows:

- West Coast rock lobster with 118 successful appellants (57 full commercial and 61 limited commercial)
- South Coast rock lobster with one appellant
- Squid with eight appellants
- Abalone with 33 appellants (3 full commercial and 30 limited commercial)
- Hake longline with 26 appellants.

3.5 Conclusion

This chapter gives the summary of the redistribution of resources in the fishing industry. It describes transformation since 1994 and further transformation developments until 2001. The next chapter will give the overview of the full implementation of the policy.

Chapter 4: Overview of implementation of medium-term fishing rights

4.1 Introduction

The Marine Living Resources Act was founded on the belief that all natural marine living resources of South Africa, as well as the environment in which they exist, are a natural heritage of its entire people. For this reason marine resources should be managed and developed for the benefit of present and future generations. The objectives of the act include promoting sustainable utilization of resources while achieving economic growth, protecting the entire ecosystem with due consideration for marine biodiversity, achieving the broad and accountable participation in relevant decision-making and restructuring the fishing industry to address historical imbalances and achieving equity within all branches of the fishing industry. The full implementation of the policy is reflected in the implementation of medium-term rights allocation process.

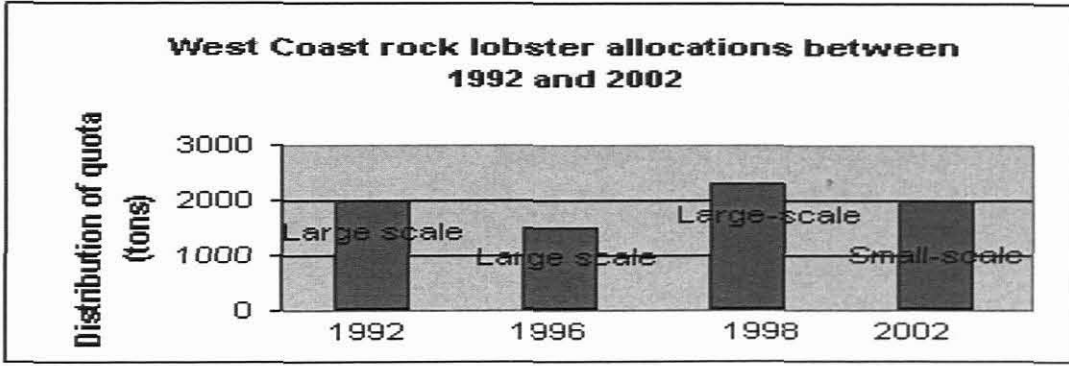
4.2 Data presentation

The allocations of 703 limited commercial fishing rights in 2001/2002 season signaled DEAT's first attempt to accommodate impoverished fishers within the commercial fisheries for West Coast rock lobster and abalone. It also opened the doors of opportunity for many previously disadvantaged fishers who, for the first time ever, confronted the realities of establishing small but sustainable business within the commercial fishing industry. For purposes of illustration, summary tables have been provided to capture data for two sectors, namely, abalone and West Coast rock lobster because they are the sectors that have high degree of transformation in terms of majority owned and majority managed.

4.2.1 Quantitative data analysis

The introduction of limited rights allocations in West Coast rock lobster has resulted in an overall transformation profile that was high compared to other fisheries. The degree of overall transformation in the existing companies in the aforementioned fishing sector has also significantly improved. Both full commercial and limited fishing rights were allocated for a medium-term period of four years.

Table 4.1: Distribution of West Coast rock lobster quotas between 1992 and 2002

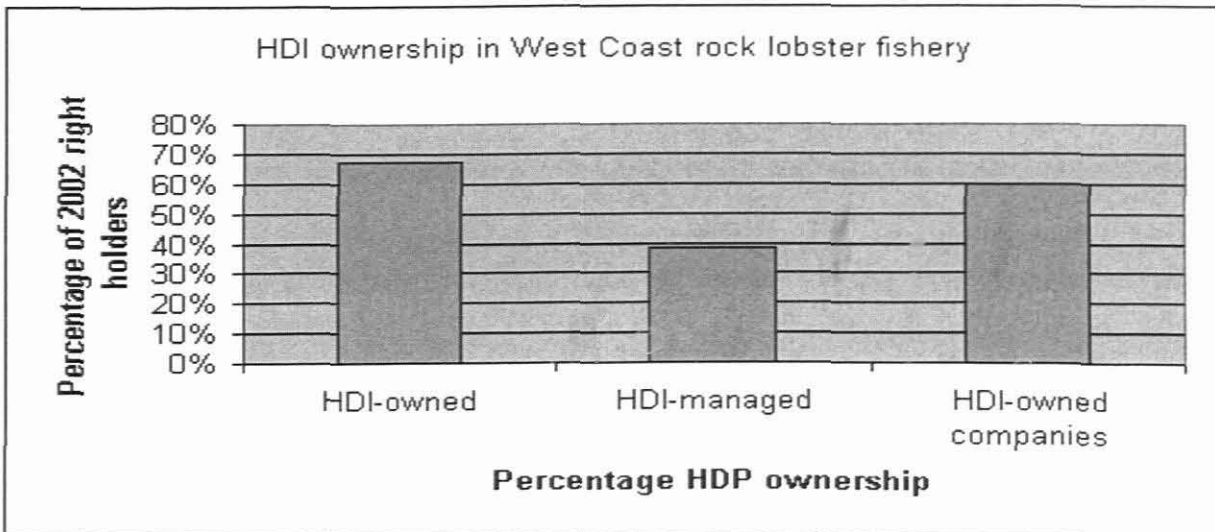


Source: DEAT: 2001/2003 allocations records

The West Coast rock lobster results in table 4.1 above show that in 1992 the allocations of TAC were 2000 tons, in 1996 TAC decreased to 1500 tons. In 1998 TAC recovered to 2300 tons and in 2002 it was just below 2000 tons. Transformation between 1992 and 2000 showed very limited success. This is shown by the number of rights allocated in 1992 which were only 39 as compared to 745 right-holders allocated in 2002.

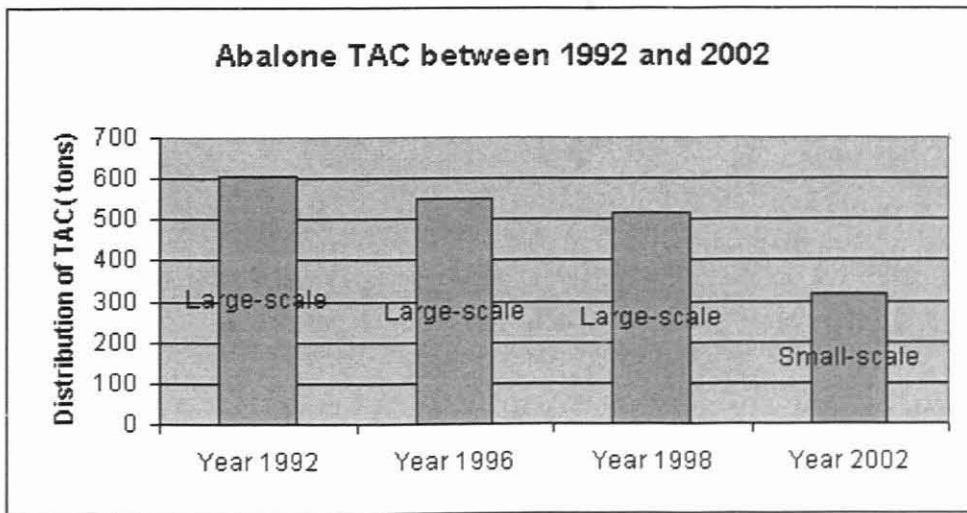
Further results in terms of allocation records in this fishery are represented in table 4.2 below.

Table 4.2: Transformation in West Coast rock lobster in 2002



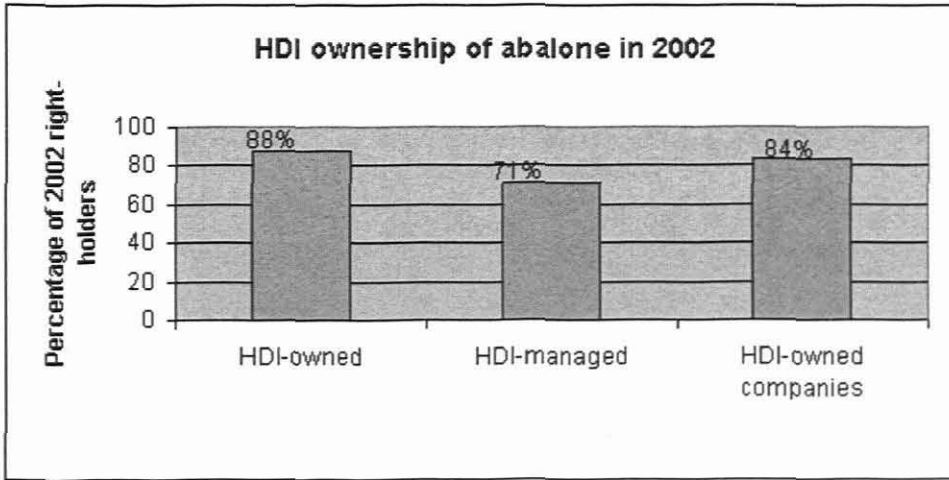
The results illustrated on table 4.2 above show that 67 % of right-holders of West Coast rock lobster are HDI-owned, 38% of right-holders are majority HDI-managed and 60% of the total allowable catch is in the hands of majority HDI-owned companies. These figures reveal that Department's approach to managing transformation in the fishing industry through allocation policy has been fruitful. One aspect of transformation that has not been addressed in this sector is that of employment equity. There is still more to be done to improve equity in top management of large companies.

Table 4.3: Distribution of abalone quotas between 1992 and 2002



Commercial fishing rights for abalone were allocated for both full and limited commercial fishing for a period of two years in 2001/2002 season. In total 271 abalone fishing rights were allocated in 2002 compared to 1992. Out of 271 fishing rights, 41 rights were allocated to large-scale companies and a further 232 rights were allocated to small-scale companies or individuals. The results reveals that ninety percent of the limited commercial allocations were held by individuals and the remainder were held by the closed companies which means that ninety percent of global abalone TAC was allocated to SMME's in 2002.

Further transformation of 2001/2002 season for abalone is presented in table 4.4 below.



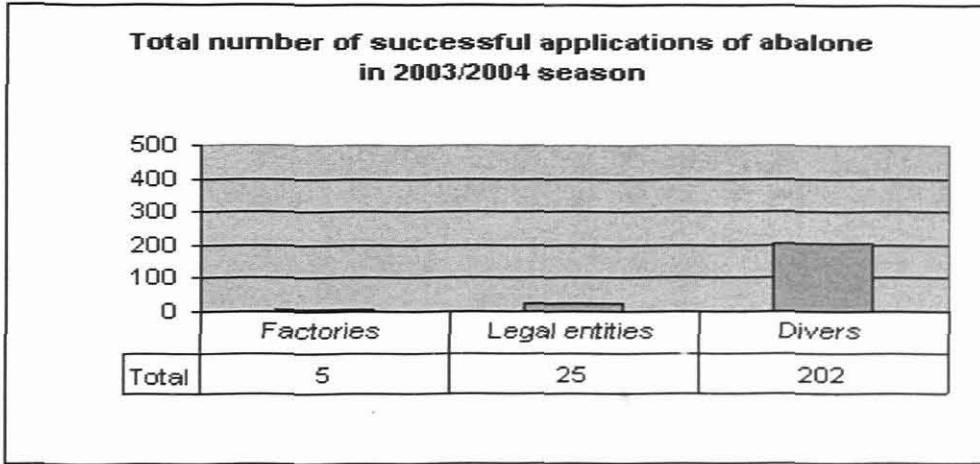
The allocation records show that:

- 88 % of right-holders are majority HDI-owned.
- 71 % of right-holders are majority HDI-managed
- 84% of the total allowable catch is in the hands of majority HDI-owned companies.

As a result of illegal fishing in natural stock of abalone there was a need to introduce a new system to this fishery for 2003/2004 season after broad consultation with the affected coastal communities. The new policy for the allocation of abalone rights (the Abalone Policy) seeks to address the threat of illegal harvesting and over-catching of abalone, and to ensure the long-term viability of abalone fishery. The Department determined that commercial abalone rights be granted for a period of ten years to divers and legal entities. The processing factories were granted for three years transitional period to enable them to become financially independent of their own allocations of abalone and capable of financial survival on revenue generated by fees charged for processing of abalone. The Minister has determined a TAC of 282 tons for 2003/2004 season.

The results of allocations of abalone for 2003/2004 season are presented in table 4.5 below.

Table 4.5: Transformation in abalone in 2003/2004 season.



Source: DEAT:2003/2004 allocations records

A total of 481 applications were received. The policy provides for allocation of commercial abalone rights to three types of right-holders namely, abalone processing factories, divers and legal entities. Of 481 applications received, 8 were from abalone processing factories, 318 from divers and 155 from legal entities. Applications were scored against one another in accordance with the clearly defined assessment criteria set in the abalone policy. In total 232 applications were successful before appeals process. Of these successful applications, 5 are abalone processing factories, 25 are legal entities and 202 right-holders are divers. The results reveal that transformation in legal entities is 66 % HDI-owned and HDI-managed and 74.5% of divers right-holders are from historical disadvantaged group.

4.2.2 Qualitative data analysis

A research study on the attitude of small-scale fishers towards the medium-term rights allocations has been conducted in Western Cape. One hundred questionnaires were distributed in Cape Town to a population of four hundred fishers. Data was collected from a sample of small-scale fishers. The response was fifty percent. The following are the answers to various questions:

Question 4: Reasons to fish

One hundred percent of respondents in relation to question on reasons to fish indicated that they fish for commercial reasons. The allocation of fishing rights on a limited commercial basis was part of a strategy by the government to encourage the development of SMME's and to address the demands of disadvantaged fishers who depend on marine resources for their livelihood. With the involvement of these fishers in commercial fishing, it seems that the objective of the policy to ensure greater access to marine resources by those who have been denied access previously has been achieved.

Question 5: Where do you sell your fish?

Eighty two percent of respondents indicated that they sell their fish internationally. The objective of the policy in promoting sustainable utilization of resources while achieving economic growth showed fruitful results as with the real long-term rights, the small-scale operators managed to be independent and to negotiate for fair prices for their catch. This demonstrates that small-scale operators are globally competitive as they are able to give their products entry to foreign markets at first entry to business.

Question 7: There is sufficient number of permanent workers in your company

Eighty percent of respondents disagreed on having sufficient permanent workers in their companies. This could be because these fishers are individual fishers who were subsistence

fishers previously or could be that these fishers are a group of few fishers who have joined together to form a small company with no permanent employees. These companies still need to grow to have permanent workers. The rights for limited commercial fishing were granted to individual fishers and to small companies who still need assistance on how to establish a big business. The marine policy requires that the small-scale operators be developed to improve the efficiency of their operations and competitiveness. The Department's duty to improve the economic efficiency of the small and medium enterprises still needs consideration.

Question 8: There are potential opportunities for women in your company.

One hundred percent of respondents agreed on potential opportunities for women in their companies. The involvement of women in the fishing industry is supported by most of the fishers. This gives hope that there is room for involvement of women in fishing industry. It is clear that men are dominant in the fishing industry as in the formulation of the policy, women were never represented. The policy guidelines issued with the application form made room for gender equity to encourage women to apply. In the past, fishing has been seen as an exclusively male occupation. It is time to recognize the role women played in the fishing communities such as processing and trading. The Department should involve more women in the fishery development by increasing the share of development resources to target companies in which they work.

Question: 10: There is a relationship between your organization and Departmental fisheries management.

Seventy percent of respondents agreed on having relationship between their organization and the Departmental fisheries management. This means that the fishing industry has interest in participating in decision-making concerning fishing activities. In the past, the relationship in fishing industry between Departmental management and stakeholders was very poor as fishers had no trust in the administration system and to the managers. The top-down approach was the reason for failure of Departmental fisheries management to achieve the desired goals. With the introduction of the new law, the new participatory approach was considered in consulting various stakeholders in the fishing for their inputs in formulation of marine fisheries policy. Co-operative

management requires that the system be transparent in decision-making so that all parties understand and support decisions that affect their community resources. The Departmental fisheries management, fishers and fisheries scientists have a legitimate role to play in the management of marine resources. To rectify the problems of the past management related to top-down exclusion of fishers, the Departmental fisheries management should add fishers into the process. This will create co-operation between government and fishers in sharing the responsibilities for sustainability in the management of marine resources.

Question 11: The decision-making on who can fish, where to fish and when to fish is made by majority.

Ninety five percent of respondents disagreed on decision-making on who can fish, where to fish and when to fish made by majority. In a democratic state, the decisions are made by majority. It is clear that decision-making in the fisheries management has not been made by majority as most traditional fishers on the ground were excluded in decision-making. The Department should engage all stakeholders, fishers, and scientists as partners in decision-making. This will ensure ownership in the resources as fishers will gain confidence in the system and in the management.

Question 12: The result of 2001 fishing rights allocation process reflects a great improvement in transforming the South African fishing industry.

Eighty five percent of respondents agreed on results of 2001 fishing rights allocation. This reflects improvement in transforming the South African fishing industry. The Department's commitment in transforming the fishing industry has been confirmed by formulation of new fisheries legislation and policy that has recognized the needs of coastal communities including legal recognition of the subsistence and the limited commercial fishers. The Department also developed a system for granting access to marine resources to a fair and equitable process that incorporate all users-groups to management framework and consultative process. Main objectives of the policy have been achieved with the implementation of the medium-term allocation process.

Question 13: The marine resources in terms of the Marine fisheries policy are distributed equally and fair among the population groups.

Fifty percent of respondents disagreed on equally and fair distribution of marine resources among the population groups. Sustainable fishery management takes account of total use of resources such as commercial, recreational, subsistence and limited commercial. For this reason these resources need to be distributed equally. It is clear that the distribution of these resources among the population groups were not equally distributed. The previous system was designed to favour large-scale operators and few white owned companies. The subsistence fishers and small-scale operators were not recognized as they were considered to be informal and their operations were illegal. With the development of the new legislation, redistribution of resources was redressed by recognizing subsistence, the growth of SMME's and inclusion of HDI's in the fishing. The Department in implementing transformation during the allocation of medium-term rights reserved a portion of TAC or TAE to accommodate new entrance and to encourage the growth of SMME's to existing companies through their internal restructuring. The Department has acknowledged that transforming the fishing rights cannot be achieved overnight; for this reason there is still a lot to be done to ensure balance in sharing of these resources. With the amount of people introduced in fishing, one would say that there is balance but in terms of assets in the industry, there is still a lot to be done. Out of twenty two different sectors of commercial fishing, there are only few sectors in which SMME's are able to gain access because the requirements are very high. This still excludes the target group in gaining access to certain sectors of the resource. It is clear that there is still a lot to be done to fill the gap in terms of distribution of marine resources. There are few companies that have engaged women in their companies.

Question 14: The fisheries management consults the whole fishing industry before taking decisions during policy process.

One hundred percent of respondents disagreed on the fisheries management consulting the whole fishing industry before taking decisions during policy process. The reason could be that these fishers were subsistence fishers who were not recognized during the policy formulation or may

be that the communication could not reach them during the policy process. In a democratic government, the community must be informed of the government's initiation so that it may participate in decision-making process. Communication ensures that information is conveyed and it contributes to making more effective policy-decisions. With the implementation of new policy, the government tried to redress wrong doings of the past by consulting the whole fishing industry before taking decisions but more communications means that distributing information to people at ground-level is necessary as it could be the case in this instance.

Question 15: Training of fishers is encouraged by the fishing industry to empower small-scale and medium fishing operators and all the historical disadvantaged groups to compete for access rights.

One hundred percent of respondents disagreed on training of small-scale and medium fishers as being encouraged by fishing industry to compete for access rights. The methods of empowerment as described in the marine fisheries policy are:

- Expanding, equity ownership in companies
- Restructuring of industry in order to move in the direction of larger portions of the quota being sold to small-scale fishing operators
- Encouraging contracts with the fish-processing companies
- Helping small-scale operators improve efficiency
- Unbundling, merges and information of co-operations and other forms of formal commercial co-operations.

It is clear that encouragement of training of fishers in fishing industry still needs to be considered. The Department's methods of empowering described in the policy are sound and offer potential efficient solutions to the problems of developing the skills of the fishers but in practice they are not. SMME's need to be trained on how to establish their businesses and there is need to improve the efficiency of their operations and competitiveness. The ability of fishing operations to achieve efficiency in production is influenced by the experience and the skill of the operators. The fisheries managers should provide training programmes to improve the skills and the knowledge of the fishers.

Question 16: There are financial institutions arranged by the fisheries management to assist the small-scale and medium enterprises who have financial problems to pay for the application fees.

One hundred percent of respondents disagreed on financial institutions being arranged to assist the fishers who have financial problem to pay for the application fees. There are no financial institutions arranged for this purpose by the Department. The reason could be that the Department is limiting the access to the resources to ensure sustainability, as the primary objective of the policy is to limit access to ensure sustainability. This means that government should plan to increase marine production in the long-term by conserving and restoring the marine resources to ensure that they will continue to be productive for present and future generations. By increasing the application fees the Department was trying to avoid the risk of paper quotas by including only those who are genuinely interested in the fishing industry. The idea of limiting access by increasing application fees has on the other hand excluded many traditional fishers who depend on inshore resources for their livelihood as they could not afford the high application fees. These are the fishers at the ground level who need financial assistants. The Department should provide financial assistance support services for the fishers on ground level or provide them with information on how to get financial help.

Question 17: The application is designed in such a way that it can be easily understood by all fishers and there are guidelines on how to complete the application form.

Only five percent of the respondent agreed on application form being easily understood by all fishers. The majority of respondents disagreed on the application form designed to be understood by all fishers. The reason for those who agreed could be that they are more educated. Therefore education was one of the causes that complicated the application form. Another reason could be the language used in designing the application form. The fact that the application form is written in English could complicate it as majority of fishers along the coast speak Xhosa and Afrikaans. Another reason that could complicate the application form is the fact that there is only one application form designed for both limited and full commercial rights in which more information requested only refer to large companies and do not apply to small and medium enterprises. The

guidelines issued with the application forms would not serve any purpose to somebody who does not understand what is written on it. It is clear that the application form is not designed to be understood by all fishers, as the Department during the allocation process had made provision for all applicants who do not understand some questions of the application form. This shows that the Department is aware of the difficulties in completing the application form. A separate application form designed for limited commercial fishing would be necessary to make it easily understood by all.

Question 18: There is transparency and access to information concerning decisions of fishing management issues that are available on request for public scrutiny.

Ninety five percent of respondents agreed on transparency and access to information concerning fisheries management's decisions made available. Transparency in the decisions of the fisheries management has been seen in the provision of access to information regarding applicant's application forms that have been made available on request. After announcement of results, the review books with a summary of decisions taken were made available for public scrutiny. The reasons for not being considered were also made available after the appeals process. This proved the system to be open and transparent. To ensure that there is no tampering with the process, the Department appointed the Rights Verification Unit to also verify the information given by the applicants.

4.3 Conclusion

This chapter gives the results of a questionnaire survey on the implementation of the policy with medium-term fishing rights allocation process. The next chapter will present conclusions of the report and will also provide brief recommendations.

Chapter 5: Conclusions and recommendations

5.1 Conclusions

Policy involves a series of related decisions taken after liaison with public managers and political office bearers that convert certain needs of the community into objectives to be pursued by public institutions. The role of the government is to provide the general welfare of the community. One of the challenges facing the Department is the limited marine resources with many fishers. This requires that the available marine resources should be used effectively to satisfy the needs of the community. The past laws showed that there was lack of support from government managers of coastal marine resources with participation towards the needs of traditional coastal communities. The efficient administration means that the achievements of objectives and economical use of resources need to be used reasonable and fairly between the groups. This is the area in which the marine law tried to achieve, through the management of South African fishing, the objective to provide more equitable access to marine resources particularly to those who have been historically disadvantaged or excluded by past political policies.

As the efficient policies are those that give best results and that achieve the desired goals of societal well-being, with the restructuring in the allocations of fishing rights, the department tried to achieve the equity in the fishing industry to ensure that all population groups are represented. Efficiency therefore implies defining standards that apply equally to every activity in the public sector.

Complexity in fisheries management has been confirmed by the long time taken by the department to write the act and to come out with the national policy. This is also proved by the limited success in the first stage of transformation. During the period between 1994 and 2000, the department tried to improve the system with limited success because of many applications received as the result of the interest and the expectations that government would broaden access to marine resources. There were long delays in the allocation of fishing rights as the department had a shortage of human resources. The amount of fish that was allocated was small and many fishers lacked sufficient skills, which led the new entrants to lease their fishing rights back to the

big companies. This approach forced the new entrants to become paper quota holders. This led to lack of trust in administration, regulation and officers by fishers who then thought of poaching as a remedy.

The introduction of medium-term and some long-term rights allocation system has proved to be a qualified success as the marine resources would be utilized optimally and sustainably to achieve economic growth. The government's main goal to achieve equity and to include previously disadvantaged groups seemed to be achieved as today more than 5830 individuals and companies have been granted fishing rights as compared to 1994 where few fishing rights were issued to white owned companies.

The involvement of all stakeholders in the fishing industry to submit their inputs when formulating the policy was another area in which the department showed participation in the fishing industry as compared to previous policies where there was lack of transparency and consultation.

In an effort to avoid previous allegation and corruption, the department appointed the Rights Verification Unit which is an independent body outsourced to ensure that there is no tampering with the process or documents. Considering the target group, race, gender and the equity ownership in existing companies was used as the criteria to access the application forms. This was done to accommodate new entrants to the fishing industry.

The policy guidelines that were issued for the first time with the application form also proved that the department is moving towards improving the service delivery. What the department has done is a big step forward but its success should be viewed with some caution as the policy process does not end in implementation, it should be evaluated until objectives are fully achieved.

5.2 Recommendations

There is a need for improvement in the following:

- To ensure involvement of women in the fishing development as in the past men tended to dominate. In the formulation of the present policy women were not represented. There should be an increase in share development to target those fishing companies in which women work.
- A support system should be developed to provide financial help, information and training to improve the skills and knowledge of the new entrants and small-scale operators. Since small-scale operators are new in this business, they need advice and assistance on how to develop their business skills and how to obtain capital.
- Criteria for selection should be made in a way that will give the targeted group access to the marine resources.
- An extra role needs to be taken to ensure co-operation between the fisheries management and the fishing industry to effectively improve co-operation and participation in sharing of decision-making and management functions between government and stakeholders in fishing.
- A separate application form designed for limited commercial fishing is necessary that can be easy understood by the SMME's.
- Policy process does not end at implementation. Constant analysis should take place to evaluate the efficiency and effectiveness of the fishing policy in changing circumstances and to make room for adjustment until the objectives of the policy are fully achieved.

References

Bailey, D.J. 1999. *South African perspective on rights in fishing and implications for resource management*. Marine policy (Mar. policy), Vol.24.no.3, pp 352-354, 20000.

Charles, A.T. 2001. *Sustainable Fishery System*.

Canada: St. Mary's University

Department of Environmental Affairs and Tourism. 2001-2002. *Annual Review South Africa*.
South Africa

Department of Environmental Affairs and Tourism.2002. *Where have all the fish gone?*

South Africa

Department of Environmental Affairs and Tourism.2004. *Transformation and South African fishing Industry*.

South Africa

Hersoug, B. & Holm, P. 2000, *bringing the state back in the choice of the regulatory system in South Africa's new fisheries policy*. FAO Fisheries Technical Paper: Use of property rights in fisheries management (402/2, pp.173 – 183; 2000: FAO ISSN: ISBN 925- 1045305

Hersoug, B. 1998. *Fishing in a sea of sharks: Reconstruction and Development in South African fishing: Transformation*.

Durban: University of Natal

Isaacs, M. 1998. *Conflict or co- operation? Attitudes towards the new fisheries policy in three fishing communities in Cape Town*.

Cape Town: University of Western Cape. (Masters Thesis)

South Africa. 1996. *Constitution of the Republic of South Africa Act, No. 108 of 1996*.

Pretoria: Government Printer.

South Africa.1997. *White Paper on Marine Fisheries Policy for South Africa*.
Cape Town: Government Printer.

South Africa. 1998. *Marine Living Resources Act, No. 18 of 1998*
Cape Town: Government Printer.

South Africa. 1988. *Sea Fishery Act, No. 12 of 1988*
Cape Town: Government Printer.

South Africa. 1992. *Sea Fishery Amendment Act, No.57 of 1992*
Cape Town: Government Printer.

Stuttaford, M. 1980. *South African Fishing Industry Handbook*.
Cape Town: Marine Information.

Stuttaford, M. 1982. *South African Fishing Industry Handbook*.
Cape Town: Marine Information

Stuttaford, M. 1985. *South African Fishing Industry Handbook*.
Cape Town: Marine Information:

Stuttaford, M. 1989. *South African Fishing Industry Handbook*.
Cape Town: Marine Information

Stuttaford, M. 1991. *South African Fishing Industry Handbook*.
Cape Town: Marine Information

Stuttaford, M. 1996. *South African Fishing Industry Handbook*.
Cape Town: Marine Information

Stuttaford, M. 2002. *South African Fishing Industry Handbook*.
Cape Town: Marine Information

Welma, J.C. & Kruger, S.J. 1999. *Research Methodology for the business and administrative Sciences*.

South Africa: Oxford University Press

APPENDIX
QUESTIONNAIRE

1. Name of your company:

.....
.....

2. Name of the area in which you reside:

.....
.....

3. Source of income:

P/week P/month

P/year

4. Reason to fish:

Recreational Subsistence Commercial

5. Where do you sell your fish?

Local International Informal Other

6. Do you have any other skills other than fishing?

Yes No

7. There is sufficient number of permanent workers in your company:

Agree Disagree Strongly Agree Strongly Disagree

8. There are potential opportunities for women in your company:

Agree Disagree Strongly Agree Strongly Disagree

9. If disagree, are there plans to get more women involved in your company?

Yes No

10. There is relationship between your organisation and the Departmental fisheries management:

Agree Disagree Strongly Agree Strongly Disagree

11. The decision in the following issues on who can fish/where to fish/when to fish is made by majority:

Agree Disagree Strongly Agree Strongly Disagree

12. The results of the 2001 fishing allocations reflect a great improvement in transforming the South African fishing industry:

Agree Disagree Strongly Agree Strongly Disagree

13. The marine resources in terms of the Marine fisheries policy are equally and fairly distributed among the population groups:

Agree Disagree Strongly Agree Strongly Disagree

14. The fisheries management consults the whole fishing industry before taking decisions during the policy process:

Agree Disagree Strongly Agree Strongly Disagree

15. The training of fishers is encouraged by the fisheries management to empower small-scale and medium fishing operators and all the historically disadvantaged groups to compete for access rights:

Agree Disagree Strongly Agree Strongly Disagree

16. There are financial institutions arranged by the fisheries management to assist the small and medium enterprises who have financial problems to pay for applications fee:

Agree Disagree Strongly Agree Strongly Disagree

17. The application form is designated in such a way that it can be easy understood by all fishers and there are guidelines on how to complete the application form:

Agree Disagree Strongly Agree Strongly Disagree

18. There is transparency and access to information concerning decisions of the fisheries management issues that is made available on request for public scrutiny:

Agree Disagree Strongly Agree Strongly Disagree

END OF QUESTIONNAIRE. THANK YOU VERY MUCH!