



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)

REVISED (2020): FINAL IMPACT ASSESSMENT TEMPLATE –PHASE 2

**NAME OF THE PROPOSAL: POLICY ON THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE HAKE LONGLINE FISHERY: 2021**

1. Please DO NOT ALTER the template and questionnaire
2. Date must be clearly indicated
3. Draft SEIAS report should have a watermark word DRAFT indicating the version and should be accompanied by the supporting documents (draft proposal, M&E plan and pieces of research work)
4. FINAL report will be in PDF format and will be inclusive of the sign-off
5. FINAL report will have the approval stamp of the Presidency on the front cover and will include the signoff
6. Sign off forms are only valid for a period of six months.
7. Bills and Regulations that introduce permitting, licensing and registration system must be accompanied by a streamlined process map and indicate the proposed turnaround time for processing of such.

PART ONE: ANALYSIS FOR FINAL SEIAS REPORT

Please keep your answers as short as possible. Do not copy directly from any other document.

1. Conceptual Framework, Problem Statement, Aims and Theory of Change

1.1. What socio-economic problem does the proposal aim to resolve?

The South African Hake Longline fishery is managed as a part of the Global Hake TAC for the region. HLL has historically been apportioned about 6.551% of the Global Hake TAC. The allocation of Hake Longline (HLL) TAC in line with Section 2 of the Marine Living Resources Act (MLRA), whilst recognising the specific constraints of the sector, is the problem that this proposal aims to resolve.

The Hake Longline sector has the following distinguishing characteristics, which require consideration for rights allocation. The first is that, by the end of the Long Term Rights Allocation and Management Process of 2005 (LTRAMP2005) rights period, the sector was considered to be fully subscribed, comprising of 109 exemption holders (a reduction of 30 from the 149 entities initially granted Rights in 2005). The second is that most LTRAMP2005 exemption holders each received what are considered to be sub-optimal allocations of the TAC.

The objectives of the MLRA as laid out by Section 2 of the Act, require “the need to utilise marine living resources to achieve economic growth, human resource development, capacity building within fisheries and mariculture branches, employment creation;”, “the need to restructure the fishing industry to address historical imbalances;”, “the need to promote equitable access to and involvement in all aspects of the fishing industry and, in particular, to rectify past prejudice against women, the youth and persons living with disabilities;” and “the need to recognise approaches to fisheries management which contribute to food security, socio-economic development and the alleviation of poverty;” Furthermore Section 18 of the MLRA requires, “the need to permit new entrants, particularly those from historically disadvantaged sectors of society,” with regard to fishing rights allocations.

Thus rights allocation in the sector will need to balance the objectives of the MLRA, as laid out in Section 2 and Section 18, whilst ensuring the HLL sector specific constraints are considered.

The impact of sub-optimal rights allocations

Most of the LTRAMP2005 Rights holders held rights that were less than 1% of the longline portion of Hake TAC. The largest allocation to an entity was 6.7% of the longline TAC. The small Rights allocated to most of the Right Holders led to the need for Rights Holders to gain rights in other sectors in order for their operations to be economically viable and/or to operate in “economic units”.

“Economic Units” where several Rights Holders pool their quota to achieve economic sustainability reduce individual Rights Holders ability to participate fully in the sector.

In addition, due to these sub-optimal allocations, some LTRAMP2005 may have operated as “Paper Quota” holders, where they utilised rights to receive an income (through catch or charter agreements, or selling or transferring quota to another company or individual). Paper quotas do not fully participate in the sector, they do not increase investment or development of the sector.

Further characteristics of the sector for consideration

Current exemption holders have invested more than R200 million in the sector and the Hake Longline fishery creates 1,500 to 2,000 jobs. According to data gathered by the Department during FRAP 2005/06 The transformation profile of the sector has improved, black shareholding in the fishery is 84.69%, with recent figures indicating female ownership at 46.2%. The sector is relatively capital intensive, with an average vessel price of R 4.5 million. The sector is predominantly comprised of SMMEs.

With the HLL sectors' promotion of SMMEs and current transformation profile, it has the potential to significantly further the objectives of the MLRA to "to achieve economic growth, human resource development, capacity building within fisheries and mariculture branches, employment creation and a sound ecological balance consistent with the development objectives of the national government." Allocating optimal rights to operators in a sector that was considered to be fully subscribed in line with the MLRA requires careful consideration, which this proposal addresses.

1.2. What are the main root causes of the problem identified above?

What socio-economic problem does the proposal aim to resolve	What are the main roots or causes of the problem
Sub-optimal allocations to most of the LTRAMP2005 rights holders.	<ul style="list-style-type: none"> - High capital intensity of the sector - Large number of rights holders in the sector - Relatively small allocation to Hake Longline from global Hake TAC
Reliance on other sectors to ensure economic viability	<ul style="list-style-type: none"> - Sub-optimal allocations to most of the LTRAMP2005 rights holders. - High capital intensity of the sector - Large number of rights holders in the sector
Formation of "Economic Units"	<ul style="list-style-type: none"> - Sub-optimal allocations to most of the LTRAMP2005 rights holders. - High capital intensity of the sector - Large number of rights holders in the sector
'De Facto' Paper Quotas	<ul style="list-style-type: none"> - Sub-optimal allocations to most of the LTRAMP2005 rights holders. - High capital intensity of the sector - Large number of rights holders in the sector

1.3. Summarise the aims of the proposal and how it will address the problem in no more than five sentences.

The proposal aims to review the sector specific Policy on the Allocation and Management of Commercial Fishing Rights in the Hake Longline Fishery (HLL Policy) to ensure optimal participation in the sector, whilst balancing the objectives laid out in the MLRA.

This will be achieved through policy adjustments as follows:

- Increasing Hake Longline from 6.551% of the global hake TAC to 10% of global TAC (pending research and OMP review in 2022);
- Removing vessel ownership as a barrier to entry to the sector
- Ensuring meaningful participation in the sector through measures to reduce paper quotas;

- The application of exclusionary and balancing criteria to ensure meaningful participation in the sector, full utilisation of the resource, the promotion of transformation, local economic development support and SMME support within the sector;
- The recognition of ‘economic units’ in the final policy and application process;
- The inclusion, as the final step of the Quantum Allocation Method, of the following “address small allocation concerns and/or introduction of new entrants to the extent possible”; and
- Allowing new entrants within the sector where justifiable,

These proposed amendments to the HLL sector policy will ensure that the specific challenges within the sector are addressed.

1.4. How is this proposal contributing to the following national priorities?

National Priority	Impact
1. Economic transformation and job creation	<p>Optimal allocation of HLL TAC in line with MLRA objectives, will aim to maximise job creation and transformation in the sector. Including job creation and transformation in the balancing criteria for applicants will ensure that these factors are promoted through the rights allocation process.</p> <p>Removal of vessel ownership as a barrier to entry, and allowing new entrants, will further ensure access to the sector, resultant job creation and economic transformation.</p> <p>The recognition of economic units in the policy and application process will ensure that SMMEs continue to be able to operate in the sector.</p> <p>This may be achieved at the cost of some job losses from LTRAMP2005 Rights Holders who may receive TAC allocations lower than what they received during LTRAMP2005 due to lack of transformation or underutilisation of rights.</p>
2. Education, skills and health	SMME development and promotion will result in increased small business development within the sector and resultant skills development.
3. Consolidating the social wage through reliable and quality basic services	Removing vessel ownership as a barrier to entry, and measures to reduce paper quotas, will improve meaningful participation in the sector, with improved stability and hence stable/ long-term employment opportunities.
4. Spatial integration, human settlements and local government	N/A
5. Social cohesion and safe communities	Economic viability will improve livelihoods, local economic development (development in the areas specifically benefitting from the Hake Longline sector) will result in livelihood improvement and positive impacts on social cohesion and safe communities.
6. Building a capable, ethical and developmental state	The proposed changes reflect a capable and ethical state, promoting the development of a transformed and inclusive sector,

National Priority	Impact
	whilst balancing environmental concerns to ensure sustainable use of Hake Longline resources.
7. A better Africa and world.	Improvement to economic empowerment of HDI groups within the sector, and the development of SMMEs will contribute to this objective. As will the attempt to maximise job creation in the sector.

1.5. Please describe how the problem identified could be addressed if this proposal is not adopted. At least one of the options should involve no legal or policy changes, but rather rely on changes in existing programmes or resource allocation.

Option 1.	Allocate commercial fishing rights, manage and monitor and evaluate the performance by successful fishing rights holders using the current General Policy and simply review Application Forms and Selection Criteria, with input and advice obtained from the Consultative Advisory Forum (CAF).
Option 2.	Allocate commercial fishing rights, manage them and monitor and evaluate the performance by successful fishing rights holders using the MLRA, with input and advice obtained from CAF.

PART TWO: IMPACT ASSESSMENT

2. Policy/Legislative alignment with other departments, behaviours, consultations with stakeholders, social/economic groups affected, assessment of costs and benefits and monitoring and evaluation.

2.1. Are other government laws or regulations linked to this proposal? If so, who are the custodian departments? Add more rows if required.

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of contradiction and how will the contradictions be resolved
General Policy On The Allocation Of Fishing Rights: 2021	Department of Forestry, Fisheries and the Environment (DFFE)	Need to be read together	No contradictions
Policy On Transfer Of Commercial Fishing Rights: 2021	Department of Forestry, Fisheries and the Environment (DFFE)	Need to be read together	No contradictions
Policy for Small Scale Fisheries Sector in South Africa: 2012	Department of Forestry, Fisheries and the Environment (DFFE)	Need to be read together.	No contradictions
Marine Living Resources Act (MLRA)	Department of Forestry, Fisheries and the Environment (DFFE)	<ul style="list-style-type: none"> - Section 2: Objectives of the MLRA; - Section 14: Determination of Total Allowable Catch (TAC) and Total Allowable Effort (TAE); - Section 18: Granting of commercial fishing rights; and - Section 28: Cancellation and Suspension of rights, licenses and permits. 	<p>No contradictions.</p> <p>The MLRA is a high level national legal framework that provides for commercial harvesting of marine fisheries resources in South Africa and the General Policy is complimentary to the MLRA, providing enabling guidance towards implementation of the provisions of the MLRA and achievement of set objectives thereof.</p>
National Empowerment Fund (NEF) Act, No 105 Of 1998	The Department of Trade, Industry and Competition	Section 3: Objects of the Trust	No areas of contradiction, the NEF Objectives are complimentary to those of the MLRA
Merchant Shipping Act 57 of 1951	South African Maritime Safety Authority (SAMSA)	Section 68: Licensing of Vessels	No areas of contradiction, this Section of the Merchant Shipping Act is enabling and complimentary certain elements of the MLRA

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of contradiction and how will the contradictions be resolved
BBBEE Codes of Practice	Department of Trade and Industry	Informs and guides transformation imperatives of the sector policy.	No areas of contradiction.
Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA")		Informs and guides job creation imperatives of the sector policy.	None.
Employment Equity Act 55 of 1998		Informs and guides transformation imperatives of the sector policy.	None
National Plan of Action for the Conservation and Management of Sharks (NPOA-Sharks)	Department of Forestry, Fisheries and The Environment	Informs and guides monitoring and evaluation of the sector policy.	None
National Plan of Action for the Conservation and Management of Seabirds (NPOA-Seabirds)	Department of Forestry, Fisheries and The Environment	Informs and guides monitoring and evaluation of the sector policy.	None

2.2. Proposals inevitably seek to change behaviour in order to achieve a desired outcome. Describe (a) the behaviour that must be changed, and (b) the main mechanisms to bring about those changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.

a) What and whose behaviour does the proposal seek to change? How does the behaviour contribute to the socio-economic problem addressed?

1. Reliance by LTRAMP2005 rights holders on operating in "economic units" or reliance on other fisheries for economic viability.

Due to the fact that most of the LTRAMP2005 right holders were allocated economically sub-optimal allocations of TAC, some rights holders were unable to utilise their allocated rights whilst maintaining business viability. As a result, these rights were transferred or under-utilised. Alternatively, rights holders formed "Economic Units", through which they could pool their resources to exercise their granted rights. Access to Rights in other sectors has also been used to improve the profitability of these smaller entities.

This reliance on economic units or other sectors diminished the ability of rights holders to grow their businesses, create jobs, operate autonomously, and invest in the sector.

2. “Paper Quotas” are stakeholders who are allocated rights but have no intention to invest in the fishery, bear risks, and participate in the sector through actively engaging in the various aspects of the value chain. As such they may simply choose to engage in catch agreements, and outsource the resource harvesting, processing and marketing. This behaviour is problematic for the sector as it does not promote skills development or job creation through participating in the sector and various value-adding activities related to processing and marketing the resource. There is an opportunity cost in allocating rights to “paper quota” holders – that of jobs that might have been created, local economic development that might have been generated, if such quotas were allocated to stakeholders willing to invest and participate in the sector.

b) How does the proposal aim to bring about the desired behavioural change?

1. Reliance by stakeholders on operating in “economic units”, or reliance on other fisheries for economic viability, is addressed through the following policy sections:

- The inclusion, as part of the Quantum Allocation Method, of the provision that a step will be taken to “address small allocation concerns to the extent possible”;
- Vessel access is used as a balancing criteria for evaluating applicants, no longer as exclusionary criteria, removing some barriers to entry, enabling stakeholders who have less capital, to participate, and reducing capital intensity in the sector; and
- Differentiating between Category A, B and C sectors will ensure that new entrants will be evaluated against one another, and potentially be able to meaningfully participate in the sector.

2. Paper Quotas are addressed through the following:

- The inclusion of balancing criteria in assessing applicant right holders which include investment in the industry, performance, job creation, transformation, to evaluate applicant’s actual participation within the sector.
- Discouraging the transfer of quota between hake directed sectors,
- Moratorium of the transfer of rights in the first 3 years after rights are allocated.

2.3. Consultations

a) Who has been consulted inside of government and outside of it? Please identify major functional groups (e.g. business; labour; specific government departments or provinces; etc.); you can provide a list of individual entities and individuals as an annexure if you want.

Consulted Government Departments, Agencies and Other Organs of State

The draft Policy was gazetted for public comments on 20 September 2021 (Government Gazette Number 45180) and the gazette was circulated to interested and affected parties, including Government Departments, Agencies and other Organs of State. The Public consultations to solicit inputs/comments on the draft policy were conducted from 13 October to 21 October 2021. Meeting with Recognised Industrial Bodies were also held. Interested parties submitted comments to the SEIAS Phase 1 as well as the proposed revised Policy for Hake Longline sector to which the department has responded.

Department's name	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
<p>Competition Commission</p> <p>Note: While they only commented on the General Policy, some of the comments were pertinent to the Hake Longline Sector and were therefore considered.</p>	<p>Benefit:</p> <ul style="list-style-type: none"> - Reducing sector concentration. - Increasing competition within the sector. - Increasing economic participation in the sector by HDIs and SMMEs - Promotion of Fairness <p>Implementation/Compliance Costs:</p> <p>None to the Competition Commission</p> <p>Risks:</p> <p>None</p>	<p>The Competition Commission Commented on the General Policy and Transfer Policy. Many General Policy comments are applicable to the Sector policies including:</p> <ul style="list-style-type: none"> - Support of the separation of applicants into Category A, B and C noting that one category should not take preference over another. - Supports for the approach to fronting and paper quotas. - Support for the inclusion of “skippers” when considering compliance. - Supports the need for applicants to disclose their relationship to other applicants, and approach to subsidiaries and brother-sister companies. 	<p>Proposed amendments:</p> <ul style="list-style-type: none"> - Leasing of a fishing vessel should be suitable to demonstrate investment by Category C applicants. - The Competition Commission advised that the Department ensures that no preference is shown towards applicants in a particular category of the three (3) categories (e.g. Category A, B & C); - With respect to the Balancing Criteria, the Commission would like to advise the Department against having clauses that could lead to barriers to trade, particularly for Category C applicants 	<p>There have been ongoing engagements with the Competition Commission. Inputs from the Commission in 2019 and 2020 were included in the Draft Policies which were gazetted in September 2021. Much of the most recent engagement with the Commission has been to acknowledge that their suggestions have been included.</p> <p>While leasing of a vessel was not specifically included, vessel access in Section 6.2.6 is sufficiently broad, and investment was sufficiently broad to ensure that barriers to entry in the fishery are reduced.</p> <p>The General Policy does not show preference towards any category.</p>
<p>SAMSA</p>	<p>Benefits:</p>	<p>SAMSA supports the proposed review of the General Policy.</p>	<p>Propose the insertion/ inclusion of compliance with the Merchant Shipping Act 57 of 1951, in</p>	<p>Yes, this was included in the Section 6.2.6 (ii) of the General policy,</p>

<p>Note: While they only commented on the General Policy, some of the comments were pertinent to the Hake Longline sector and were therefore considered.</p>	<p>More enabling conditions for employees within the sector</p> <p>Implementation/Compliance Costs: The status quo remains</p> <p>Risks: None</p>		<p>consideration of Balancing Criteria (specifically with regard to Job creation).</p>	
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Consulted stakeholders outside government:

The following has been extracted from the various consultations, please see Comments and Responses Report for comprehensive records.

Name of Stakeholder	What do they see as main benefits, Implementation/ Compliance costs and risks?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
<p>South African Hake Longline Association</p>	<p>Benefits: Optimal allocation of hake resource and promotion of the Hake Longline sector.</p> <p>Implementation/Compliance Costs: None</p> <p>Risks: - Allowing any transfer of TAC between hake directed sectors (e.g. Hake Longline to Hake Deep Sea Trawl) will undermine the policy objectives to promote the HLL sector. Applicants will be</p>	<p>In general, they approve policy measures to promote the HLL fishery. They advocate for unequivocal wording to prevent TAC transfer between hake directed sectors.</p> <p>They support setting a meaningful minimum allocation in the sector.</p>	<p>SAHLLA proposes an extension to the current draft text geared towards prohibiting the transfer of quota from any trawl fishery to longline and vice versa. The proposed text should therefore read – Transfer of hake quota between the Hake longline and Hake Trawl sectors (i.e., hake inshore and hake deep-sea trawl) will be prohibited.</p> <p>The propose a minimum allocation of 90t be considered</p>	<p>The proposal of including the suggested wording with regard to transfer between hake directed sectors was not incorporated. The current wording, “Discourage the transfer of hake quota between hake directed sectors” is sufficient.</p> <p>The proposal to set a minimum allocation was not incorporated in the policy. Analyses conducted within the pending hake OMP review are still needed to evaluate the potential for increasing the HLL TAC apportionment as well as where it</p>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
	allocated TAC that is not economically viable			can be drawn from. Minimum allocation may result in excluding LTRAMP2005 rights holders who performed well and were transformed from the sector, in order to satisfy minimum allocation to some rights holders. The following wording was however included in section: “address small allocation concerns and/or introduction of new entrants to the extent possible.”
WWF-SA	<p>Benefits:</p> <p>Implementation/ Compliance Costs: None to WWF SA</p> <p>Risks: The policy and resultant TAC allocations may not be guided by environmental principles which ensure sustainable utilisation and management of the resource, to ensure stable resource stocks into the future.</p>	Approve of aspects of the proposal with regard to minimum allocations, and point to contradictions with regard to enabling access to the sector.	<p>Proposed the following:</p> <ul style="list-style-type: none"> - Including a section with regard to EAF (Ecosystem Approach to Fisheries) within the Policy. - Observer coverage shall be required for 10% of all longline sets. - Electronic Monitoring shall be piloted by Right Holders. 	These proposals were not included as they refer to fisheries in their entirety and the future management there-of, which is not within the scope of this specific sector policy.
ZIMELE FISHING CC	<p>Benefits: Fishing season aligned with the OMP process which occurs every 4 years.</p>	Support the change of the season as stipulated in the draft policy.		No adjustments required.

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
	<p>Implementation/ Compliance Costs: Status quo remains</p> <p>Risks: None</p>			
Soundprops Investments	<p>Benefits: Reducing barriers to entry within the sector.</p> <p>Implementation/ Compliance Costs: Status quo remains</p> <p>Risks: Investment in vessel building is not accounted for in terms of vessel access.</p>	Support vessel access as part of balancing criteria, require it to be broader.	Propose acknowledging investment in building vessels in the policy and application process as part of “access to a suitable vessel”	The following wording was included in the final policy: “If an applicant intends building a new vessel, then additional information must be provided including vessel plans, the cost to be incurred, a firm and binding commitment by the vessel building company to build the vessel accompanied by evidence of a deposit to the building company paid by the applicant.”
Balobi Fishing Enterprises Pty Ltd	<p>Benefits: Promotion of the HLL Sector</p> <p>Implementation/ Compliance Costs: Status quo remains</p> <p>Risks: TAC allocations remain small and are not economically viable</p>	Support the increase of the % of TAC allocated to HLL to 10%.	Propose this be implemented with immediate effect during this current LTRAMP.	<p>This proposal was not incorporated, as the apportionment of the TAC relies on information from the OMP (which is due to take place in 2022).</p> <p>It is important that any change in TAC apportionment be underpinned by scientific evidence that it would be beneficial to do so.</p>

b) Summarise and evaluate the main disagreements about the proposal arising out of discussions with stakeholders and experts inside and outside of government. Do not give details on each input, but rather group them into key points, indicating the main areas of contestation and the strength of support or opposition for each position

1) **General Recognition of economic units**

As this sector is comprised of many SMMEs, and rights holders who, in the LTRAMP2005 allocation round, were granted rights that were sub-optimal, many LTRAMP2005 Rights Holders formed “economic units” (and/or applied for Rights in other sectors) to ensure business viability. As such, they require that performance within the economic unit be recognised in terms of exclusionary and balancing criteria, and that the application form accommodates information from economic units. They did not feel that the draft policy sufficiently recognised economic units.

The final policy includes recognition of economic units and the application form has been amended as such.

2) **Increase in longline apportionment (Section 2.3 (a))**

Stakeholders welcomed the increase of the Hake Longline apportionment from Global Hake TAC. Concerns were raised as to where this would be drawn from, when it would be allocated, and how the increase would be allocated amongst applicants.

The policy was amended to include the wording: “subject to further investigation on possible impacts on resource dynamics and how the 3.449% of the TAC that would be required for this will be sourced.” Stakeholders were made aware that this is pending the hake OMP review in 2022. The decision needs to be underpinned by thorough due diligence and scientific rigor.

3) **Appeals reserve (Section 7.1.1)**

The appeals reserve was not supported by any stakeholder.

The appeals reserve was removed from the policy, the policy includes the following wording to accommodate appeals:

“11.5 Successful applicants must be aware that initial allocations made during the FRAP2021, prior to the appeals process, may be adjusted subsequent to the appeals process to accommodate successful appellants.

11.6 Appellants must be aware that in the event that their appeal is successful, they will only be permitted to fish at the start of the following fishing season”.

4) **Minimum allocation (Section 7.1.2)**

There was strong support for the meaningful minimum allocation approach, given the previous Rights Holders mostly held economically sub-optimal rights.

The “minimum meaningful allocation” was removed from the policy due to difficulties with regard to implementation. The following wording was retained however: “Address small allocation concerns and/or introduction of new entrants to the extent possible.”

5) **New entrants (Section 8)**

There were mixed sentiments from stakeholders about the inclusion of new entrants. There was general consensus that if new entrants are considered, their inclusion should not prejudice allocations of previous rights holders who have transformed, performed well and invested in the sector.

Additional wording was added to Section 8 of the policy to acknowledge that during the previous rights cycle the sector was fully subscribed, "it shall be noted that there is limited scope to accommodate New Entrants in this fishery."

6) **TAC decrease cushion (Section 2.3 (b))**

There was general support for this section, but there are operational and legal difficulties with implementing this.

This section was removed from the policy.

7) **Compliance exclusionary criteria (Section 6.1.1 and section 15 (b) - Contraventions)**

Most stakeholders objected to the broad application of compliance as exclusionary and balancing criteria. Objections arose about including skippers, employees, crew and contractors within the spectrum of compliance, citing it would be difficult to implement.

The final policy only includes the following persons in consideration of compliance and contravention of the MLRA, "Directors, Senior Management, Shareholders or Members (where such shareholding or members interest exceeds 10%) or Skippers". Further specifications are given with regard major and minor violations in terms of the balancing criteria.

8) **Non-utilisation of Rights (Section 6.1.4 and Section 6.2 (d) - Fishing Performance)**

Stakeholders raised concerns about the inability to utilise rights due to external circumstances such as crew strikes or poor fishing seasons. There were requests for this to be included in the policy.

Utilisation of rights is included as both exclusionary and balancing criteria. Non-utilisation of rights for the entire period will exclude applicants from the process. The extent to which those rights were utilised will be evaluated as balancing criteria. This should ensure that the utilisation of rights for the duration of the period will be taken into account.

9) **Investment in the sector (Section 6.2 (e) and Section 6.2 (f) - Access to a vessel)**

Stakeholders argued that it is unreasonable to require investment and/or vessel access prior to grant of rights. This can provide significant barriers to entering the fishery given the high vessel costs.

In terms of the QAM, vessel access is not exclusionary criteria, rather balancing criteria. The final policy includes the following with regard to vessel access: "Access may be in the form of ownership, part ownership, a catch agreement, a charter agreement, or a bank guarantee for a sufficient capital to purchase or build a vessel." Further vessel specifications were outlined. This is sufficiently broad to ensure removing barriers to entry where possible, whilst still ensuring stakeholders will have the capacity to operate in the sector.

Please see appendices for further details.

- a. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. Note: NO law or regulation will benefit everyone equally so do not claim that it will. Rather indicate which groups will be expected to bear some cost as well as which will benefit. Please be as precise as possible in identifying who will win and who will lose from your proposal. Think of the vulnerable groups (disabled, youth women, SMME), but not limited to other groups.

List of beneficiaries (groups that will benefit)	How will they benefit?
LTRAMP2005 Right Holders that have performed well and transformed	May receive greater rights allocations due to performance.
New entrants	If allowed, will gain access to the sector and opportunity to expand/develop business
All HLL Rights Holders, their crew, employees and their respective dependents	Granting of economically viable fishing rights will ensure food security, economic growth and better quality life
All Processors and Marketers of fish and fisheries products within the HLL sector	Assurance of business continuity and good investor confidence

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
DFFE	Implementing and evaluating policy changes will carry a cost. Furthermore, the filling of vacancies; creation of posts additional to the establishment; and costs related to stakeholder consultations (e.g. travelling & accommodation costs, printing of policies in four different official, languages, contract workers, etc.)
Stakeholders identified as paper quota risks	Will no longer be able to participate in the sector
Unsuccessful applicants (Category A and B), their employees and suppliers	Loss of income and employment
Unsuccessful applicants (Category C)	Will bear the administrative burden and associated application costs

- b. Describe the costs and benefits of implementing the proposal to each of the groups identified above, using the following chart. Please do not leave out any of the groups mentioned, but you may add more groups if desirable. Quantify the costs and benefits as far as possible and appropriate. Add more lines to the chart if required.

Note: "Implementation costs" refer to the burden of setting up new systems or other actions to comply with new legal requirements, for instance new registration or reporting requirements or by initiating changed behaviour. "Compliance costs" refers to on-going costs that may arise thereafter, for instance providing annual reports or other administrative actions. The costs and benefits from achieving the desired outcomes relate to whether the particular group is expected to gain or lose from the solution of the problem.

For instance, when the UIF was extended to domestic workers:

- The implementation costs were that employers and the UIF had to set up new systems to register domestic workers.*
- The compliance costs were that employers had to pay regularly through the defined systems, and the UIF had to register the payments.*
- To understand the inherent costs requires understanding the problem being resolved. In the case of UIF for domestic workers, the main problem is that retrenchment by employers imposes costs on domestic workers and their families and on the state. The costs and benefits from the desired outcome are therefore: (a) domestic workers benefit from payments if they are retrenched, but pay part of the cost through levies; (b) employers pay for levies but benefit from greater social cohesion and reduced resistance to retrenchment since workers have a cushion; and (c) the state benefits because it does not have to pay itself for a safety net for retrenched workers and their families.*

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
DFFE	<p>Appointment of commercial fish Catch Data Monitors;</p> <p>Costs of undertaking fishing stock assessments and overtime;</p> <p>Processing permit Applications and Issuing of Permits;</p> <p>Issuing of Section 28 Notices;</p> <p>Fishing vessel inspections;</p> <p>OMP Revision conducted every 4 years to ensure sustainable utilization of the SA hake resource;</p> <p>Filling of vacant posts and creation of key posts additional to the establishment.</p> <p>Costs of participating at Local and Regional Forums as well as costs of meeting the annual reporting obligations</p>		<p><u>Costs:</u></p> <p>Stock assessment and related fisheries research undertakings (e.g. Research vessel operation and maintenance costs, sea going allowance, etc.)</p> <p>Fisheries Surveillance and Monitoring costs (e.g. Vessel operational and maintenance costs, overtime costs, etc.)</p> <p><u>Benefits:</u> sustainable utilization of the SA hake resource to ensure long term reliable stock levels.</p>	
Fishing Rights Holders	<p>Deploying observers at sea on a user pays basis to ensure monitoring and sustainable utilisation of the resource;</p> <p>Resources allocated to provide supplementary information during the application process.</p>	<p>Granting of Fishing Rights Fee;</p> <p>Annual Permit application costs;</p> <p>Imports and Export Permits costs</p>	<p><u>Costs:</u></p> <p>Some potential job losses due to shifts in TAC apportionment promoting transformation and well performing applicants;</p> <p><u>Benefits:</u></p> <p>Sustainable utilisation of the SA hake resource,</p> <p>Resource use optimised to maximise employment, transformation and SMME development.</p>	

2.6 Cost to government: Describe changes that the proposal will require and identify where the affected agencies will need additional resources

a) Budgets, has it been included in the relevant Medium Term Expenditure Framework (MTEF) and

FRAP2020/2021 has been budgeted for in the current Financial Year (2021/2022) with a dedicated FRAP2020/2021 Cost Centre within the Marine Living Resources Fund. Budget provision for implementation of Fisheries policies is an integral part of the MLRF Annual Budgeting process.

b) Staffing and organisation in the government agencies that have to implement it (including the courts and police, where relevant). Has it been included in the relevant Human Resource Plan (HRP)

Most of the policy implementation work will be carried out by existing Fisheries Staff compliment. However, filling of vacant post and creation of posts additional to the establishment is a matter that warrants priority attention. In the interim, to augment capacity and ensure due diligence, the Department will partner with other relevant departments and agencies, with formal agreements being entered into where it is necessary.

Note: You MUST provide some estimate of the immediate fiscal and personnel implications of the proposal, although you can note where it might be offset by reduced costs in other areas or absorbed by existing budgets. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

2.7 Describe how the proposal minimises implementation and compliance costs for the affected groups both inside and outside of government.

For groups outside of government (add more lines if required)

Group	Nature of cost (from question 2.6)	What has been done to minimise the cost?
Fishing Rights Holders	Granting of Fishing Rights Fee; Annual Permit application costs; Imports and Export Permits costs	<ul style="list-style-type: none"> Grant of Right fees will remain as at 2015/16 levels.
Fishing Rights Holders	High investment costs in Hake Longline with historically low allocations result in low returns on investment.	<ul style="list-style-type: none"> Considering the economic viability when allocating rights will ensure that rights holders receive a viable return on their investment costs, which are high in the Hake Longline sector

For government agencies and institutions:

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
DFFE	Appointment of FRAP contract workers and filling of vacant posts and creation of key posts additional to the establishment	Entering into formal agreements with other government Departments and Agencies with respect to certification of fisheries products destined for local and international markets (e.g. NRCS); safety at sea and vessel licensing (e.g. SAMSA); prevention and combating of illegal fishing activities (e.g. SAPS); Bilateral and Multi-lateral Agreements on Fisheries Management, Research and Compliance (e.g. MoU between the Republic of South Africa and Republic of Namibia on Fisheries Management and Aquaculture, BCC, SADC, etc.).

2.8 Managing Risk and Potential Dispute

- a) Describe the main risks to the achievement of the desired outcomes of the proposal and/or to national aims that could arise from implementation of the proposal. Add more lines if required.**

Note: It is inevitable that change will always come with risks. Risks may arise from (a) unanticipated costs; (b) opposition from stakeholders; and/or (c) ineffective implementation co-ordination between state agencies. Please consider each area of risk to identify potential challenges.

- The proposed increase in TAC apportionment to HLL may be legally challenged by stakeholders in other Hake fisheries. Stakeholders have commented on the draft policy to indicate as such.
- Most applicants receive economically sub-optimal rights during this allocation round. Should this risk be realised, many of the policy objectives may not be achieved;
- Successful appeals by unsuccessful fishing rights applicants and or aggrieved successful fishing rights applicants pose a risk as they would lead to costly court processes; may further prolong the status quo; and lead to denial of access to the fishing resource by successful new entrants and others;
- Assessing applicants within the Hake Logline sector for the FRAP2020/2021 allocations will take time, especially with regard to thorough assessment of balancing criteria (and vetting submitted information). The careful balancing of sector specific information with stakeholder specific information and policy objectives will be essential for the successful rights allocation process. This will require capacity to ensure that all procedures are followed, and that the final decisions are grounded in policy objectives. If the necessary capacity is not mobilised to ensure a thorough assessment process, the department faces risks

of litigation, as well as insufficiently implementing the objectives of the MLRA;
and

- Prolonged and severe Covid-19 related restrictions on day to day business operations would negatively affect critical milestones and overall achievement of FRAP2020/2021 objectives.

b) Describe measures taken to manage the identified risks. Add more rows if necessary.

Mitigation measures means interventions designed to reduce the likelihood that the risk actually takes place.

Identified risk	Mitigation measures
The proposed increase in TAC apportionment to HLL may be legally challenged by those in other Hake fisheries.	<p>The policy simply states the following, “Longline apportionment increased from 6.551% to 10% of the hake TAC, subject to further investigation on possible impacts on resource dynamics and how the 3.449% of the TAC that would be required for this will be sourced”</p> <p>No changes will be implemented without thorough research, backed by the OMP revision.</p>
Most applicants receive economically sub-optimal rights during this allocation round.	<p>Careful consideration will need to be given to “small allocation concerns”,</p> <p>The costs of not including all LTRAMP2005 rights holders will need to be weighed against all LTRAMP2005 rights holders receiving economically un-viable allocations this round,</p> <p>Investigation into increased HLL TAC will need to be seriously considered.</p>
Capacity to implement the HLL Policy, applications and management processes.	<p>Ensure sufficient departmental capacity to conduct a thorough assessment of applicants, and submitted information, with particular regard to small allocation and economic viability.</p> <p>Plan processes and identify resourcing requirements to ensure policy objectives will be met.</p>
Appeals by unsuccessful fishing rights applicants.	<p>Ensure procedures are adhered to and stakeholders communicated with concerning correct procedures.</p> <p>Thorough stakeholder engagement sessions have been completed, where concerns were addressed.</p> <p>Appointment of an independent Service Provider to oversee FRAP2020/21 to ensure due diligence, quality management and compliance to applicable legislation and prescripts;</p>

	Facilitate meetings with aggrieved applicants and solicitation of advisory input from CAF.
Covid-19 pandemic disruption of stakeholder engagement, application process and appeals process	Use of virtual platforms to host FRAP2020/2021 and SEIAS meetings and further stakeholder engagement sessions. Online application form to allow applicants to apply as easily and cost efficiently as possible.

- c) What kinds of dispute might arise in the course of implementing the proposal, whether (a) between government departments and government agencies/parastatals, (b) between government agencies/parastatals and non-state actors, or (c) between non-state actors? Please provide as complete a list as possible. What dispute-resolution mechanisms are expected to resolve the disputes? Please include all of the possible areas of dispute identified above. Add more lines if required.

Note: Disputes arising from regulations and legislation represent a risk to both government and non-state actors in terms of delays, capacity requirements and expenses. It is therefore important to anticipate the nature of disputes and, where possible, identify fast and low-cost mechanisms to address them.

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
Appeals and Litigation (including with regard to the application and allocation process)	The Department (DFFE) and Unsuccessful Commercial Fishing Rights Applicants and or aggrieved successful applicants unhappy with TAC/TAE allocated	Appointment of a Consultative Advisory Forum to advise the Minister and the Delegated Authority
The proposed increase in TAC apportionment to HLL may be legally challenged by those in other Hake fisheries.	The Department (DFFE) and stakeholders who are previous or existing rights holders in other hake fisheries.	OMP Review will inform change in Hake TAC allocations.

2.9 Monitoring and Evaluation

Note: Sound implementation of policy and legislation is due to seamless monitoring and evaluation integration during the policy development phase. Policies and legislation

that are proficiently written yet unable to report on implementation outcomes are often a result of the absence of an M&E framework at the policy and legislative planning phase. It is therefore imperative to state what guides your policy or legislation implementation monitoring.

2.9.1 Develop a detailed Monitoring and Evaluation Plan, in collaboration with your departmental M&E unit which should include among others the following:

2.9.1.1 Provide clear and measurable policy or legislative objectives

2.9.1.2 Provide a Theory of Change clearly describing the following components:

- Impact: the organisational, community, social and systemic changes that result from the policy or legislation;
- Outcomes: the specific changes in participants (i.e. beneficiaries) behaviour, knowledge, skills, status and capacity;
- Outputs: the amount, type of degree of service(s) the policy or legislation provides to its beneficiaries;
- Activities: the identified actions to be implemented
- Input: departmental resources used in order to achieve policy or legislative goals i.e. personnel, time, funds, etc.
- External conditions: the current environment in which there's an aspiration to achieve impact. This includes the factors beyond control of the policy or legislation (economic, political, social, cultural, etc.) that will influence results and outcomes.
- Assumptions: the facts, state of affairs and situations that are assumed and will be necessary considerations in achieving success

Monitoring and Evaluation Plan Attached.

2.9.1.3 Provide a comprehensive Logical Framework (LogFrame) aligned to the policy or legislative objectives and the Theory of Change. The LogFrame should contain the following components:

- Results (Impact, Outcomes and Output)
- Activities and Input
- Indicators (A measure designed to assess the performance of an intervention. It is a quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor)
- Baseline (the situation before the policy or legislation is implemented)
- Targets (a specified objective that indicates the number, timing and location of that which is to be realised)

2.9.1.4 Provide an overview of the planned Evaluation, briefly describing the following:

- Timeframe: when it the evaluation be conducted
- Type: What type of evaluation is planned (formative, implementation or summative) – the selection of evaluation type is informed by the policy owners objective (what it is you want to know about your policy or legislation).

2.9.1.5 Provide a straightforward Communication Plan (Note: a common assumption is that the target group will be aware of, and understand how to comply with a policy or legislation come implementation. However, increases in the complexity and volume of new or amendment policy or legislation render this assumption false. Hence, the need for a communication plan to guide information and awareness campaigns to ensure that all stakeholders (including beneficiaries) are informed.

Communication Plan Attached.

2.10 Please identify areas where additional research would improve understanding of then costs, benefit and/or of the legislation.

- There would be significant benefit of research into the different business models within the Hake Longline sector (both nationally and abroad) with particular attention to strategies to increase employment (through harvesting, processing and marketing, both on shore and off-shore) as well as broader contributions to the South African economy. A comparison thereof in relation to jobs per investment, or jobs per ton of TAC could guide future policy adjustments.
- Research into the impact of different business models and different fisheries which target in relation to their impact on the sustainable utilisation of the resource (for example their impact on spawning biomass of both species – to the extent that can be extrapolated)
- Research and ongoing monitoring by both the Department and stakeholders will play an important role in identifying gaps, weaknesses and flaws in existing fisheries policies and management measures.

PART THREE: SUMMARY AND CONCLUSIONS

1. Briefly summarise the proposal in terms of (a) the problem being addressed and its main causes and (b) the measures proposed to resolve the problem.

(a) The main problem that the proposal seeks to address is the allocation and management of commercial Hake Longline fishing rights in line with the Marine Living Resources Act, whilst acknowledging sector specific constraints. The high number of historical exemption holders, high capital intensity in the sector, and low proportion of global hake TAC allocated to Hake Longline, have resulted in previous exemption holders from the LTRAMP2005 period receiving allocations which were economically sub-optimal; and

(b) The proposal aims to review the policy to ensure that rights within the sector can be effectively allocated, utilised and managed to ensure local economic development, transformation and SMME support.

2. Identify the social groups that would benefit and those that would bear a cost, and describe how they would be affected. Add rows if required.

Groups	How they would be affected
<i>Beneficiaries</i>	
1. Applicants who are SMMEs and/or transformed and performed well during the LTRAMP2005 period.	They may receive rights and resulting TAC allocations which are greater than LTRAMP2005.
2. Successful Fishing Rights Applicants	Receive rights allocations which enable business operations.
3. Employees of Successful Fishing Rights Applicants	Improved job sustainability and increased skills development opportunities
4. All Processors and Marketers of fish and fisheries products within the HLL sector	Assurance of business continuity and good investor confidence
<i>Cost bearers</i>	
1. DFFE	Costs of implementing final policy objectives with regard to allocation and management of the Hake Longline Resource, particularly with regard to assessment of applications and auditing of submitted information.

	Filling of vacant DFFE positions and funding for approved posts additional to the establishment, as well as costs related to stakeholder Resource Management Working Groups (e.g. travelling & accommodation costs, etc.) and costs for undertaking annual stock assessments
2. Paper Quota Risks	May apply and bear the cost of applications, and be unsuccessful.
3. Non-performing LTRAMP2005 rights holders	May apply and bear the cost of applications, and be unsuccessful.

3. What are the main risks from the proposal in terms of (a) undesired costs, (b) opposition by specified social groups, and (c) inadequate coordination between state agencies?

- (a) Stakeholders from other fisheries that target Hake species may object to the apportionment of HLL increasing to 10% of TAC.
- (b) Lack of capacity to adequately assess applicants may result in ineffectual implementation of the policy and its core objectives. Attention needs to be given towards adequately capacitating the department in order to ensure a thorough assessment of applicants and to reduce the risk of appeals.
- (c) Successful appeals by unsuccessful fishing rights applicants and or aggrieved successful fishing rights applicants pose a risk as they would lead to costly court processes; further prolonging of the status quo; and denial of access to the fishing resource by successful new entrants and others;

4. Summarise the cost to government in terms of (a) budgetary outlays and (b) institutional capacity.

- (a) Appointment of FRAP contract workers, the filling of vacant posts and the creation of key posts additional to the establishment. The FRAP2020/21 budget and the breakdown thereof can be made available, on request; and
- (b) Existing institutional arrangements (e.g. Fisheries Management and Scientific Working Groups, Delegated Authorities, etc.), collaboration with other government departments and agencies (e.g. SAPS, SAMSA, Customs, NRCS, etc.), as well as the Fisheries Transformation Council (FTC) and Consultative Advisory Forum (CAF) in the implementation of the policy would suffice.

5. Given the assessment of the costs, benefits and risks in the proposal, why should it be adopted?

There is a need to address sub-optimal allocations within the sector whilst being mindful of sector constraints. The proposed policy amendments will enable meaningful participation by rights holders and SMMEs. There is significant potential in the sector to further over-arching governmental aims of job creation, transformation and SMME support through optimal allocations within the Hake Longline sector.

6. Please provide two other options for resolving the problems identified if this proposal were not adopted.

Option 1.	Allocate commercial fishing rights, manage and monitor and evaluate the performance by successful fishing rights holders using the current General Policy and simply review Application Forms and Selection Criteria, with input and advice obtained from the Consultative Advisory Forum (CAF).
Option 2.	Allocate commercial fishing rights, manage them and monitor and evaluate the performance by successful fishing rights holders using the MLRA, with input and advice obtained from CAF.

7. What measures are proposed to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation?

Ensuring sufficient capacity within the department to enable thorough assessment of rights applications and allocation of rights will reduce the risk of appeals and litigation, and ensure meaningful implementation of policy objectives. This is a key measure that will reduce long term costs, maximise benefits and mitigate against risks associated with the legislation.

8. Is the proposal (mark one; answer all questions)

	Yes	No
a. Constitutional?	X	
b. Necessary to achieve the priorities of the state?	X	
c. As cost-effective as possible?	X	
d. Agreed and supported by the affected departments?	X	

9. What is the impact of the Proposal to the following National Priorities?

National Priority	Impact
1. Economic transformation and job creation	Optimal allocation of HLL TAC in line with MLRA objectives, will aim to maximise job creation and transformation in the sector. Including job creation and transformation in the balancing criteria for applicants will ensure that these factors are promoted through the rights allocation process. Removal vessel ownership as a barrier to entry, and allowing new entrants, will further ensure access to the sector, resultant job creation and economic transformation. The recognition of economic units in the policy and application process will ensure that SMMEs continue to be able to operate in the sector. This may be achieved at the cost of some job losses from LTRAMP2005 Rights Holders who may receive TAC allocations lower than what they received during LTRAMP2005 due to lack of transformation or underutilisation of rights.
2. Education, skills and health	SMME development and promotion will result in increased small business development within the sector and resultant skills development.

National Priority	Impact
3. Consolidating the social wage through reliable and quality basic services	Removing vessel ownership as a barrier to entry, and measures to reduce paper quotas, will improve meaningful participation in the sector, with improved stability and hence stable/ long-term employment opportunities.
4. Spatial integration, human settlements and local government	N/A
5. Social cohesion and safe communities	Economic viability will improve livelihoods, local economic development (development in the areas specifically benefitting from the Hake Longline sector) will result in livelihood improvement and positive impacts on social cohesion and safe communities.
6. Building a capable, ethical and developmental state	The proposed changes reflect a capable and ethical state, promoting the development of a transformed and inclusive sector, whilst balancing environmental concerns to ensure sustainable use of Hake Longline resources.
7. A better Africa and world.	Improvement to economic empowerment of HDI groups within the sector, and the development of SMMEs will contribute to this objective. As will the attempt to maximise job creation in the sector.

For the purpose of building a SEIAS body of knowledge please complete the following:

<i>Name of Official/s</i>	<i>Mr Sobahle Somhlaba / Mr Mandisile Mqoqi/ Dr Marius Deon Durholtz / Ms. Buyekezwa Polo / Ms. Regina Dyasi</i>
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