Fishing Rights Allocation Process (FRAP)

Update on FRAP 2015/16 Appeals and preparations for FRAP 2020

November 2018
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Acronyms

CAF = Consultative Advisory Forum

FRAP = Fishing Rights Allocation Process (2013; 2015 and 2020)

FPES = Fish Processing Establishments

FTC = Fishery Transformation Council

LTRAMP = Long Term Rights Allocation Process (2005)

MLRA = Marine Living Resources Act (Act No. 18 of 1998)

SEIAS = Socio Economic Impact Assessment System
Background

LTRAMP 2005

- In 2005/2006, long-term commercial fishing rights were allocated in terms of section 18 of the Marine Living Resources Act, 1998 (Act. No 18 of 1998) (MLRA) in 22 commercial fisheries sectors for periods ranging from 8, 10 and 15 years. Of these -:

  - Rights expired in 8 of these fishing sectors on 31st of December 2013 (8 year allocations);
  - Rights expired in 10 sectors at various times during 2015 (10 year allocations);
  - Rights will expire in 4 sectors on or before the 31st of December 2020 (15 year allocations).
Background (Continued)

FRAP 2013

On 30 December 2013, the Department allocated long-term commercial fishing rights in all eight (8) fishing sectors in which rights expired on 31 December 2013. These fishing rights were allocated for a period of 8 years and will therefore expire on or before the 31st of December 2020.

FRAP 2015

The Department has finalised the allocation of fishing right in 9 out of the 10 commercial sectors where rights expired at various times during 2015 (excluding abalone which has not been finalised). These rights were allocated for a period of 15 years and will therefore not form part of the 2020 allocation process.
FRAP 2015/16 Appeals Process - Update

- Following the decision of the Delegated Authority in the Hake Inshore Trawl, Horse Mackerel, Large Pelagics, Patagonian Toothfish, Seaweed, Netfish, KZN Beach-Seine, West Coast Rock Lobster (Nearshore), West Coast Rock Lobster (Offshore) and Fish Processing Establishments, the Minister received appeals lodged in terms of section 80 of the Marine Living Resources Act, 1998 (Act. No 18 of 1998) (the Act).

- Appeals have been finalised in Large Pelagics, Patagonian Toothfish, Seaweed, Netfish, KZN Beach-Seine, West Coast Rock Lobster (Offshore), West Coast Rock Lobster (Nearshore) and Fish Processing Establishment sectors.

- The Minister is still re-considering the appeals received from Category B and Category C Appellants in the Hake Inshore Trawl fishing sector in compliance to the Court Order. This process is at an advanced stage and should be finalised by the end of November 2018.

- The Minister will thereafter consider and evaluate appeals received in the Horse Mackerel fishing sector, to be concluded by the end of November 2018.
FRAP 2020 Fisheries for re-allocation

- Twelve (12) sectors that are due for allocation in terms of section 18 of the MLRA in 2020. 5 of the 12 are also small-scale species. The proposed splits indicated in red

(FRAP 2013)

1. KZN Prawn Trawl
2. Demersal Shark
3. Tuna-Pole Line
4. Hake Handline (100% to small-scale)
5. Line Fish (At least a 50/50 split between commercial and small-scale)
6. White Mussels (100% to small-scale)
7. Oysters (100% to small-scale)
8. Squid (75/25% split between commercial/small-scale)

(FRAP 2020)

9. Small Pelagics (Pilchard and Anchovy)
10. Hake Deepsea Trawl
11. Hake Longline
12. South Coast Rock Lobster
Review of Policies and Fees

- As part of the FRAP 2020 process, the department will be reviewing the following policies:

1. General Policy on the Transfer of Fishing Rights
2. The 12 Sector-specific policies (see slide 7)
3. The Transfer Policy
4. The Policy on Fish Processing Establishments (FPEs).

5. In addition, the department will also be reviewing the FRAP application fees; the Grant of Right fees; permitting fees; license fees; harbour fees and levies paid on fish landed.
FRAP 2020 Preparations

• Establishment of the Consultative Advisory Forum ("CAF") and Fisheries Transformation Council ("FTC"): The Minister will shortly, in terms of section of section 5 and section 29 of the MLRA, establish these 2 bodies.
  
  o The role of the FTC is to lease rights allocated to it by the Minister to persons from historically disadvantaged sectors of society and to small and medium size enterprises. It is therefore envisaged that the FTC will play a supportive role in the FRAP 2020 allocations.

  o The role of the CAF is to advise the Minister on the management and development of the fishing industry, including issues relating to the total allowable catch.

The Department has engaged with National Treasury to the determination of the remuneration rate for the FTC members, which should be finalized shortly.

• Internal Review Process: the Department has analysed the lessons learned from the FRAP 2015 process (successes; weaknesses; gaps and areas for improvement).
Preparations (Continued)

- **Determination of the apportionment split between commercial and small-scale**: the Department has proposed an apportionment split in those 5 fisheries that are also classified as small-scale species (see slide 7)

- **Review of Polices and Application Forms**: the Department is currently reviewing the current General Policy, the 12 Sector Specific Policies and Application Forms as well as the Transfer Policy and the proposed schedule of fees. DAFF has engaged with DPME on the completion of the Social Economic Impact Assessment System (SEIAS). The Phase 1 report has been submitted to the Department of Policy Monitoring and Evaluation (DPME) for sign-off.

- **Finalise the FRAP 2020 Roadmap**: Roadmap was developed in June 2018 and revised in November 2018.

- **Appointment of the Delegated Authority**: The Minister has appointed the Deputy Director-General: Fisheries Management as the Delegated Authority for 2020
Challenges

- **Capacity challenges:** The main challenge is that the Fisheries Branch does not have a dedicated Rights Allocation Unit that can work full-time on the FRAP Process. To overcome these capacity constraints the following measures have been put in place:

- **Appointment of FRAP Project Teams:** The Delegated Authority has appointed in writing the members of the FRAP Project Teams and well as the FRAP Project Managers.

- **Creation of Capacity:** The Department has appointed FRAP staff on short-term contracts.

- **Legal Support:** The Department will be appointed 3 legal council via the State Attorney

- **Call for Volunteers:** The Department will call for internal volunteers to assist with the intensive stages of the process such as public consultations, distribution and receipting.

- **Appointment of Independent Process Observers:** The Department will appoint an outside agency to monitor and observe the FRAP process.
ALLOCATION PHASES

1. Appointment of Delegated Authority - Completed
2. Appointment of Project Teams - Completed
3. Gazetting of commencement of Allocation Process - Completed
4. Review of policies, application forms and fees – In Progress
5. Public Consultations on policies, application forms and fees – May/July 2019
6. Gazetting final policies, application forms and fees – September 2019
7. Opening of application process – September 2019
8. Closure of application process – November/December 2019
9. Verification of applications received – December 2019
10. Assessment of applications – January/ June 2020
11. Announcement of provisional lists and General Published Reasons – June 2020
12. Call for comments on provisional lists – June/July 2020
13. Assessment of comments received – June/July 2020
14. Announcement of final lists and Annexure to General Published Reasons – Aug 2020
15. Opening of Appeals Process – Aug 2020
16. Announcement of Appeals outcomes – Dec 2020
Thank you