

W. H. VENTZEL
HOWEINS
10 BRICKER ROAD
H. J. BOULEVARD
JOHANNESBURG 2196



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PART 1 OF 4



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GENERAL NOTICE

NOTICE 1146 OF 2005

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

INVITATION TO APPLY FOR RIGHTS TO UNDERTAKE COMMERCIAL FISHING FOR HAKE LONGLINE, WEST COAST ROCK LOBSTER (OFFSHORE), SQUID, SEAWEED, TUNA POLE AND DEMERSAL SHARK IN TERMS OF SECTION 18 OF THE MARINE LIVING RESOURCES ACT 18 OF 1998

Applications for rights to undertake commercial fishing are invited in the following (Cluster B) sectors:

1. Demersal Shark
2. Hake Longline
3. Seaweed
4. Squid
5. Tuna Pole
6. West Coast Rock Lobster (Offshore)

Commercial fishing rights in the Cluster B sectors will be allocated by delegated authorities in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998). The following schedules are also published herewith:

1. Schedule A: the General Fisheries Policy (isiXhosa and isiZulu). The English and Afrikaans versions of the General Fisheries Policy were published in Government Notice 931 in Government Gazette 27683 of 15 June 2005.
2. Schedule B: the Fishery Specific Policies for Hake Long Line, West Coast Rock Lobster (Offshore), Squid, Seaweed, Tuna Pole and Demersal Shark in English, Afrikaans, isiXhosa and isiZulu.
3. Schedule C: the final specimen Medium Term Right Holder Application Forms for each of the Cluster B sectors listed above.
4. Schedule D: the Explanatory notes to the Medium Term Right Holder Application Forms in English, Afrikaans, isiXhosa and isiZulu.
5. Schedule E: the final specimen New Entrant Application Form for each of the Cluster B sectors.
6. Schedule F: the Explanatory notes to the New Entrant Application Forms in English, Afrikaans, isiXhosa and isiZulu.
7. Schedule G the final schedule of fees determined by the Minister in consultation with the Minister of Finance in terms of section 25(2) and section 25(1) of the Marine Living Resources Act. The schedule of fees published in Schedule E hereby repeal the provisions of clause 1(a) (i), (iv), (v), (vi), (viii) and (ix) of GN 26750 of 31 August 2004.

The application form distribution process for Cluster B will commence on Monday 25 July 2005. Application forms will be distributed at the following distribution venues, which will be open between 08h30 and 16h30 from Monday 25 July 2005 to Friday 29 July 2005.

Port Nolloth Venue: Port Nolloth Library Hall Address: Cnr Robson and Roland Street	Hondeklipbaai Venue: Hondeklipbaai Community Hall Address: Dolphin Street	Doring Bay Venue: Doring Bay Community Hall (Hawe) Address: Kerk Street	Lamberts Bay Venue: Community Hall Address: Burell Street
Elands Bay Venue: Negelbrecht School Hall Address: Elands Bay Street	Saldanha Bay Venue: Tabakbaai Holiday Resort Hall Address: Saldanha Bay Municipality	Cape Town Venue: Woodstock Town Hall Address: Between Aberdeen and Plein Street	Hermanus Venue: Zwelihle Recreational Centre Address: Plot 88, Lusiba Street
Arniston Venue: Community Hall Address: Off Kemp Street (to gravel road)	Mossel Bay Venue: JS Langenhoven Library Address: Myixhale Street Kwa-Nongqaba Location	Plettenberg Bay Venue: New Horizons Hall Address: Geelhout Street	Jeffrey's Bay Venue: Caravan Park Hall Address: Cnr Hoekervantone & Harde Streets
Port Elizabeth Venue: Helenvale Resource Centre Address: Baatjies Street, Helenvale	East London Venue: Cosmics View Hall Address: Buffalo Park Drive	Port St Johns Venue: Port St Johns Town Hall Address: 257 Main Street	Durban Venue: KZN Wildlife Offices Address: 3 Elton Place, Congella

Applicants may obtain further information regarding the process in the manner described in the policies and application forms and at www.mcm-deat.gov.za. Applications for Cluster B must be submitted on 18 August 2005 (between 08h00-19h00) or 19 August 2005 (between 08h00-17h00) at the places and venues specified in the application forms.

SCHEDULE A

GENERAL FISHERIES POLICY



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

**GENERAL POLICY ON THE ALLOCATION AND MANAGEMENT OF LONG
TERM COMMERCIAL FISHING RIGHTS: 2005**

THIS POLICY MUST BE READ WITH THE APPLICABLE FISHERY SPECIFIC POLICY

(available at www.mcm-deat.gov.za)

This document is also available in Afrikaans, isiXhosa and isiZulu
Hierdie document is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar
Lencwadi iyafumeneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu
Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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PART A: INTRODUCTION AND BACKGROUND

1. Introduction

This *General Policy on the Allocation and Management of Long Term Commercial Fishing Rights* is issued by the Minister of Environmental Affairs and Tourism and will be referred to as the "**General policy**". The General policy must be read in conjunction with policies that will be referred to as the "**Fishery specific policies**" or "**Sector specific policies**" that have been adopted for each commercial and experimental fishing sector. In the General policy a number of issues are dealt with that are relevant to all the fishing sectors listed in paragraph 2. These cross-cutting policy considerations also inform the contents of the Fishery specific policies, which set out the Minister's specific intentions with regard to the allocation of rights in each fishery. Potential applicants and interested parties should read this General policy in conjunction with the applicable Fishery specific policy.

2. Application

The General policy applies to the allocation of rights in the 19 commercial fishing sectors: Hake Deep Sea Trawl, Hake Inshore Trawl, Horse Mackerel, Small Pelagics, Patagonian Toothfish, South Coast Rock Lobster, KwaZulu-Natal Prawn Trawl, Hake Long Line, West Coast Rock Lobster (Off Shore), Squid, Tuna Handline, Seaweed, Shark Demersal, Handline Hake, West Coast Rock Lobster (Near Shore), Oysters, White Mussels, Netfishing (Trek- and Gillnets and Beach Seine) and Kwazulu-Natal Beach Seine.

The General policy does not apply to –

- Subsistence fishing. A separate policy will be adopted dealing specifically with subsistence fishing, including the subsistence fishing of East Coast Rock Lobster and Abalone in the Eastern Cape.
- Recreational fishing. A separate policy will be adopted dealing specifically with recreational fishing.
- Foreign fishing.
- Fish processing establishments. A separate policy will be adopted dealing specifically with fish processing establishments.
- Mariculture. A separate policy will be adopted dealing specifically with the regulation and management of mariculture in South Africa.
- Non-consumptive marine activities, including boat based whale watching, shark cage diving, sport diving and SCUBA diving. Separate policies will be adopted dealing specifically with these non-consumptive marine activities.
- Traditional Linefish. A separate policy will be adopted dealing specifically with Traditional Linefish.

Although this policy does apply to Hake Handline, West Coast Rock Lobster (near shore), Netfish (Trek- and Gillnets, Beach Seine), Kwazulu-Natal Beach Seine, Oysters and White Mussel sectors, applicants in those sectors are advised to focus on the Fishery specific policy for the considerations that will be applied to the allocation of rights. It will be essential for applicants in these sectors to study the fishery specific policies before they apply.

3. Purpose

The General policy, together with the Fishery specific policies, is intended to serve as a guide for the long term rights allocation process. It describes the core functions of the Department which support the rights allocation process. The Minister also considers it necessary, for the benefit of applicants, to set out some of the Department's management objectives for the immediate future. These may be reviewed from time to time by the Department if considered desirable.

4. What informs this policy?

The General and Fishery specific policies are informed by South Africa's international legal obligations, non-binding undertakings at international and regional level, and the legislative framework for the allocation of fishing rights.

4.1 International obligations pertaining to sustainable resource use

During the *World Summit on Sustainable Development* ("WSSD"), held in Johannesburg during September 2002, countries undertook to maintain or restore fish stocks to levels that can produce the maximum sustainable yield. The goal is to be achieved on an urgent basis for depleted stocks, and if possible, by not later than 2015. Countries also undertook to develop and implement national plans of action. The WSSD identified the need to maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, within and beyond national jurisdictions. The aim is to protect the ecosystem, using an approach that eliminates destructive fishing practices, establishes marine protected areas, imposes and supervises time and area closures for the protection of nursery grounds during spawning periods. In terms of the *Reykjavik Declaration* of 2001 and Johannesburg Plan of Implementation emanating from the WSSD, South Africa has committed itself to introducing such an Ecosystem Approach to Fisheries ("EAF") management by 2010.

The **Food and Agriculture Organisation's 1995 Code on Responsible Fisheries** is a voluntary instrument that recognises that fisheries, including aquaculture, provide a vital source of food, employment, recreation, trade and economic wellbeing for people throughout the world and should therefore be conducted in a responsible manner. The Code sets out principles and international standards of behaviour for responsible practices with a view to ensuring the effective conservation, management and development of living aquatic resources, with due respect for the ecosystem and biodiversity. The Code recognises the nutritional, economic, social, environmental and cultural importance of fisheries. The Code has led to four International Plans of Action ("IPOAs"). The IPOAs are the IPOA on Capacity; the IPOA to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing ("IUU Fishing"); the IPOA for the Reduction of Shark By-catches; and the IPOA for the Reduction of the Incidental By-catch of Seabirds. As a state party, South Africa has undertaken and is committed to apply the Code, the four IPOAs and, if necessary, to give effect to them by way of National Plans of Action. In an endeavour to implement the IPOA to Prevent, Deter and Eliminate IUU Fishing, the monitoring and control of fishing vessels will be strengthened.

The United Nations Convention on the Law of the Sea, 1982 ("UNCLOS") seeks to establish a legal order for the world's seas and oceans in order to facilitate communication in international waters. It also promotes the peaceful use of the world's seas and oceans, the equitable and efficient utilisation of marine resources, the conservation of marine living resources and the study, protection and preservation of the marine environment.

The United Nations Fish Stocks Agreement, 1995 complements the Convention by specifying how straddling fish stocks (such as hake) and highly migratory fish stocks (such as tunas) should be exploited and managed.

South Africa is further a party to a number of **Regional Fishery Management Organisations ("RFMO's")** responsible for the management and conservation of shared fish stocks, including tuna, swordfish and Patagonian toothfish. These include the International Commission for the Conservation of Atlantic Tunas ("ICCAT"), the Commission for the Conservation of Southern Bluefin Tunas ("CCSBT"), the Indian Ocean Tuna Commission ("IOTC") and the Convention for the Conservation of Antarctic Marine Living Resources ("CCAMLR"), the South East Atlantic Fisheries Organisation ("SEAFO") and the Southwest Indian Ocean Fisheries Commission ("SWIOFC").

As a member of the Southern African Development Community ("SADC"), and in particular as a signatory to the **SADC Protocol on Fisheries**, South Africa is obligated to ensure the sustainable use of shared fish stocks with its SADC neighbours. These shared stocks include hake, pelagics, prawns, linefish and horse mackerel.

4.2 The legislative framework for the allocation of commercial fishing rights

The transformation of the fishing industry is a constitutional and legislative imperative. The primary vehicle for the promotion of the transformation of the South African fishing industry is the Marine Living Resources Act 18 of 1998 (the "MLRA"). Another important purpose of the MLRA is to provide for the orderly exploitation of marine living resources, and to provide for the exercise of control over marine living resources in a fair and equitable manner to the benefit of all the citizens of South Africa. In terms of section 2 of the MLRA, the Minister and any organ of state shall have regard to a number of objectives and principles when exercising any power under the Act. These are:

- (a) *The need to achieve optimum utilisation and ecologically sustainable development of marine living resources;*
- (b) *the need to conserve marine living resources for both present and future generations;*
- (c) *the need to apply precautionary approaches in respect of the management and development of marine living resources;*
- (d) *the need to utilise marine living resources 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;*
- (e) *the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;*
- (f) *the need to preserve marine biodiversity;*
- (g) *the need to minimise marine pollution;*
- (h) *the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act;*
- (i) *any relevant obligation of the national government or the Republic in terms of any international agreement or applicable rule of international law; and*
- (j) *the need to restructure the fishing industry to address historical imbalances and to achieve equity within all branches of the fishing industry.*

In order to commercially exploit marine resources, a person or entity needs to apply and be granted a right under the MLRA. Section 18 provides as follows:

- (1) *No person shall undertake commercial fishing or subsistence fishing, engage in mariculture or operate a fish processing establishment unless a right to undertake or engage in such an activity or to operate such an establishment has been granted to such a person by the Minister.*

The allocation of rights has been the primary mechanism to further transformation and give effect to the other principles and objectives set out in section 2 of the MLRA. In order to exercise a right granted under section 18, a person needs to be issued with a permit under section 13 of the MLRA, which provides as follows:

(1) No person shall exercise any right granted in terms of section 18 or perform any other activity in terms of this Act unless a permit has been issued by the Minister to such person to exercise that right or perform that activity.

Apart the MLRA, the General Regulations, promulgated in GN 1111 in Government Gazette 19205 of 2 September 1998 (as amended) are relevant. These regulations contain certain procedures relating to appeals against decisions made under sections 13 and 18 of the Act, and the regulation of closed seasons and closed areas, the use of gear and species restrictions. The Regulations further deal with the landing, transportation, delivery, receipt, processing and marketing of fish and fish products, compliance control, the leaving of objects in the sea, fishing harbour regulations and offences and penalties.

The MLRA and its Regulations were interpreted in a number of court decisions concerning the medium term rights allocation process, some setting important legal precedents. These decisions were taken into consideration with the design of the long term allocation process.

The National Environmental Management Act 107 of 1998 ("NEMA") provides the framework for the adoption of environmental management and policy. To the extent that an action of an organ of state significantly affects the environment the principles set out in section 2 of NEMA apply.

5. Departmental Functions and Delegations

5.1 Delegation of Powers

The MLRA confers powers on the Minister of Environmental Affairs and Tourism ("*the Minister*") and the Director-General. In the past, the Minister and the Director-General have delegated many of their powers to officials in the Department, including the powers under section 13 (granting of permits), section 18 (granting of commercial fishing rights), section 28 (cancelling, revoking or suspending fishing rights / permits), section 81 (granting and cancelling of exemptions) and section 83 (permitting experiments and scientific investigations).

A complete set of all current delegations is available from the Department or may be viewed at www.mcm-deat.gov.za. The Minister intends to delegate his power to grant fishing rights and permits in the 19

commercial fishing sectors to officials in the Department. This General Policy and the Fishery Specific Policies are adopted by the Minister in order to guide the delegated authorities when allocating fishing rights and permits.

5.2 Core departmental functions supporting rights allocation

(a) Fisheries Research

The Chief Directorate: Research, Antarctica and Islands is responsible for managing the performance of this function. The principle purpose of scientific research is to ensure the ecologically sustainable utilisation of fish stocks and the conservation of marine ecosystems, including species which are not targeted for exploitation such as seals and seabirds.

The Department subscribes to Principle 15 of the Rio Declaration of the UN Conference on Environment and Development (Rio de Janeiro, 1992), which states that *"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall be not used as a reason for postponing cost-effective measures to prevent environmental degradation."*

The Department supports a precautionary approach to all fisheries. Because uncertainty affects all elements of a fishery system, precaution is required at all levels of the system.

Scientific research is aimed at understanding the dynamics of fish stocks and informs the Total Allowable Catch ("TAC") or the Total Applied Effort ("TAE") determined in terms of section 14 of the MLRA. The scientific working groups are responsible for interpreting the stock analyses carried out on the different fish stocks and this interpretation ultimately informs the determination of the TAC/TAE. Scientific research further informs the designation of marine protected areas, the designation of fisheries management areas, the determination of closed areas, closed seasons, prohibited fishing times, minimum species size, vessel and gear restrictions and fishing methods, including by-catch prevention methods. Scientific research is also conducted in order to develop new fisheries, in line with the Department's *New Fisheries Policy*.

Scientific working groups currently function in respect of each fishery sector. Each working group is made up of departmental scientists as well as external experts from other marine science institutions, such as institutions of higher learning. Most sectors are scientifically managed in terms of an Operational Management Procedure ("OMP"). Others are managed by means of annual assessments.

(b) Fisheries Management

The Chief Directorate: Fisheries and Coastal Management is primarily responsible for the performance of two functions. Firstly, to facilitate and regulate the sustainable and equitable development as well as the utilisation of marine living resources through the administration of fishing rights, permits, exemptions and licenses. Secondly, its function is to optimise the sustainable use of South Africa's coastal resources, by controlling human impacts on the environment (other than commercial fishing), such as coastal development, subsistence fishing, recreational fishing, marine pollution and marine eco-tourism. The Chief Directorate is supported by specialists in fisheries economics, fisheries management, oil and marine pollution management and coastal zone management.

(c) Fisheries and Coastal Compliance

The performance of this function is managed by the Chief Directorate: Fisheries and Coastal Compliance. In order to ensure compliance with fisheries laws, the Chief Directorate uses a number of measures aimed at encouraging and enforcing compliance. Those measures include:

- ❑ State of the art inshore and offshore environmental patrol vessels;
- ❑ Specialised environmental courts;
- ❑ Observer programmes;
- ❑ Marine protected areas;
- ❑ Vessel monitoring systems;
- ❑ Public education programmes;
- ❑ Co-management of fish stocks;
- ❑ Employment of fishery control officers responsible for ensuring that all fishing takes place in a regulated and lawful manner and that all landings are properly recorded;
- ❑ Honourary fishery control officers; and
- ❑ Strategic compliance partnerships with non-governmental organisations, local governments, conservation bodies and other applicable organs of state.

(d) Access to information

The Department's designated information officers for purposes of the Promotion of Access to Information Act, 2 of 2000 ("PAIA") are the Chief Director: Research, Antarctica and Islands, the Chief Director: Fisheries and Coastal Management and the Chief Director: Fisheries and Coastal Compliance.

A large body of information regarding previous rights allocations, such as policies, records of decisions, general published reasons, and other records such as compliance databases, TAC's and TAE's are available from the Department. Some records are also available at fishery control offices or at the Department's website (www.mcm-deat.gov.za). More information on how to access these records may be obtained in one of the following ways:

- Contact the Department's Client Care Line on 0861 123 626; or
- Visit the Department's Customer Services Centre at the Foretrust Building, 2nd Floor, Martin Hammerschlag Way, Foreshore, Cape Town.

As in the past, once the assessment of the applications is completed and the decisions are announced, most records held by the Department will be disclosed voluntarily and will be automatically available, as provided for in section 15 of PAIA. In other words, access to information forms do not have to be completed. Records may be inspected and copies will be furnished on informal request at the prescribed fee for reproduction. In general, the Department will only require access to information forms to be completed, and will only assess requests in terms of the provisions of PAIA, when access to the records created by third parties (such as completed application forms and their annexures) are sought. The approach to access to information is dealt with in greater detail below.

PART B: ALLOCATION METHODOLOGY AND PROCESS

6. The Allocation of Fishing Rights

6.1 The legal nature of the Fishing Right

Before the MLRA came into force in 1998, the Department granted fishing "*quotas*" under the Sea Fisheries Act, 12 of 1988. Section 18 of the MLRA now provides for the allocation of fishing "*rights*". The legal nature of the "*right*" allocated under the MLRA is similar to the "*quota*" allocated under the Sea Fisheries. The "*rights*" allocated under the MLRA are not property rights and should be understood as statutory permission to harvest a marine resource for a specified period of time. Accordingly, cancellation or revocation does not constitute the expropriation of a property right within the meaning of section 25 of the Constitution or the Expropriation Act 63 of 1975. This is clear from section 18(6) of the MLRA, which provides that a fishing right is valid for the period determined by the Minister (or his delegate) whereafter it automatically reverts back to the State and may be re-allocated (to the previous right holder or another entity) in terms of the applicable provisions of the MLRA.

A fishing right is granted to a specific person or entity and, in terms of section 21 of the MLRA, the right may not be transferred without the approval of the Minister or his delegate. Upon the death, sequestration, or liquidation of the right holder, the right vests respectively in the executor, trustee or liquidator and the right may continue to be exploited for the period of time permitted by the applicable legal provisions. However, any transfer of the fishing right to a third party requires approval.

6.2 Core Allocation and Management Considerations

This General policy and the Fishery specific policies are based on five core principles that guide the allocation and the management of commercial fishing rights. The five principles complement and give effect to the objectives listed in Section 2 of the MLRA. They are:

- (a) **Transformation:** Transformation and the need to achieve equality within all branches of the fishing industry.

- (b) **Biological considerations:** The impact on the target species must be considered. This is primarily done through the setting of a Total Allowable Catch ("TAC") or a Total Allowable Effort ("TAE"), or both.
- (c) **Ecological considerations:** The impact on the marine ecosystem in which the target species occurs must be considered.
- (d) **Industry and socio-economic and commercial considerations:** In so far as is practical and relevant, the socio-economic impact of allocations on right holders, workers and consumers are considered, in particular those individuals and communities dependent on the resource. Industry and commercial considerations include the nature and value of investments in fixed assets, marketing and processing and fishing capacity.
- (e) **Performance or potential to perform:** In so far as is practical and relevant, financial and fishing performance, value adding, enterprise development and job creation, as well as compliance with the MLRA, the Regulations, permit conditions and other legal requirements, are considered.

6.3 The Allocation Process

(a) *Public participation in policy formulation*

The Minister held 6 Imbizos in coastal communities during the latter half of 2004. These meetings were the informal start to a process of public consultation regarding the allocation of long term fishing rights.

The formal process of public consultation entailed a notice-and-comment process in respect of both the General policy and the Fishery specific policies. A full report concerning the public participation process and the adoption of the policies will be available at www.mcm-deat.gov.za. In brief, in the beginning of March 2005, the Department published a draft version of this General policy and a draft Fishery specific policy for each sector. Interested and affected parties were invited to comment on the policies. However, stakeholders in the various fisheries come from very different backgrounds and accordingly it was not appropriate to engage all of them in the same manner. Apart from the general notice-and-comment procedure, and in order to assist participants in the traditional sectors to comment, a series of public meetings were held where the proposed policies were explained, questions were answered and views from the audience were minuted. Interested and affected parties will also be given the opportunity to comment on proposed application forms.

(b) Allocation Process determined by Cluster

For purposes of the long term rights allocation process, the 19 fishing sectors are grouped together in four clusters for the assessment of applications for fishing rights. The purpose of clustering fisheries together is administrative, procedural and, to a lesser extent, substantive. However, different criteria and weighting may be applied to sectors falling within the same cluster. The clusters are:

Cluster A

- ☐ Hake Deep Sea Trawl
- ☐ Hake Inshore Trawl
- ☐ Horse Mackerel
- ☐ Small Pelagics
- ☐ Patagonian Toothfish
- ☐ South Coast Rock Lobster
- ☐ KwaZulu-Natal Prawn Trawl

Cluster B

- ☐ Hake Long Line
- ☐ West Coast Rock Lobster (off shore)
- ☐ Squid
- ☐ Seaweed
- ☐ Tuna Pole
- ☐ Demersal Shark

Cluster C

- ☐ Handline Hake
- ☐ West Coast Rock Lobster (near shore)

Cluster D

- ☐ Net Fish (trek- and gillnets; beach seine)
- ☐ KZN Beach Seine
- ☐ Oysters
- ☐ White Mussels

(c) Communication

During the application period, officials of the Department, the delegated authority and the Minister, will not communicate with individual applicants regarding their applications, other than in the manner described in this General Policy. Similarly, applicants or their representatives may not communicate with the Minister, the delegated authority or officials of the Department regarding their applications other than in the manner described in this General policy. No reliance may be placed on any information given or obtained in any other manner. Attempts to influence a decision of the delegated or appellant authority on the allocation or a right or quantum or effort in any other manner will constitute an independent ground for refusing an application or an appeal.

Clusters A and B

Unless otherwise provided in this General policy, communication between the Minister, the delegated authority and officials of the Department Communication on the one hand, and applicants on the other, may only take place through three mechanisms in the **Clusters A and B** sectors:

- **Electronic Media:** Policies and other materials will be published on the website, www.mcm-deat.gov.za. Electronic-mail distribution lists will be established in order to communicate directly with applicants. During the application period, queries and questions of clarification will be answered by way of e-mail. There will be no communication on a private individual basis. All queries and questions received, and responses thereto, will be compiled and then distributed simultaneously to all registered applicants. The information will also be available on the website.
- **Government Gazette:** All policies, invitations to apply and general notices will be published in the Government Gazette.
- **Recognised industrial bodies and interest groups:** Policies and other materials will be circulated through recognised industrial bodies and interest groups.

Clusters C and D

Unless otherwise provided in this General policy, communication between the Minister, the delegated authority and officials of the Department Communication on the one hand, and applicants on the other, may only take place through six mechanisms in the **Clusters C and D** sectors:

- **Electronic Media:** Policies and other materials will be published on the website, www.mcm-deat.gov.za.
- **Government Gazette:** All policies, invitations to apply and general notices will be published in the Government Gazette.
- **Recognised industrial bodies and interest groups:** Policies and other materials will be circulated through recognised industrial bodies and interest groups.
- **Call centre:** The Department has established a call centre with assistants to answer rights allocations queries.
- **Customer Services Centre:** The Department has established a customer services centre in Cape Town.
- **Departmental officials** will render assistance to applicants at the distribution and receipting points and will hold meetings at several advertised venues along the coastline where the application process will be explained.

(d) Language

In **Cluster A**, the policies and explanatory notes to the application forms will be available in English and Afrikaans.

In **Clusters B, C and D**, the policies and explanatory notes to the application forms will be available in English, Afrikaans, isiXhosa and isiZulu.

In the case of conflict, the English text of a policy or explanatory note, will prevail.

(e) Invitation to apply for rights

Invitations to apply for commercial fishing rights will be published in the Government Gazette. The Department will also ensure that notices are placed on the Department's website and in regional newspapers.

Invitations gazetted in the Government Gazette will comprise the following parts:

- ☐ A short invitation to apply for the applicable commercial fishing right within a specified period.
- ☐ The fishery specific policy.
- ☐ A specimen applicable application form with a set of instructions, explanatory notes, and the notes to the schedules of documents to be submitted.

The invitation will not include this General policy as well. Applicants will however be provided with copies of the General policy on request. Invitations will be staggered on a cluster basis.

(f) Application Forms

Each fishery will have a separate application form designed to obtain the information considered relevant to effectively evaluate applications for the commercial fishing right in question. Application forms will be designed having regard to the fishery cluster and fishery in question.

Proposed application forms will be published for comment on website www.mcm-deat.gov.za, as part of the public participation process.

(g) Distribution of application forms and payment of fees

Cluster A

In **Cluster A**, applicants will be required to enter the Department's website and to submit a brief set of biographical details, such as name, company registration number, contact details and the like. On completion, the applicant will be informed how to make payment of the application fees.

Applicants will be required to pay the application fee prior to the issuance of the application form. Application fees must be paid directly into designated bank account of the Rights Verification Unit. On receipt of proof of payment, the applicant will be permitted to collect an application form in compact disc ("CD") format from the Right Verification Unit's head office, together with the applicable software to utilize the form.

Cluster B

Hard copy application forms will be distributed at a stipulated venue in Cape Town. Applicants will be required to deposit the application fee into the Rights Verification Unit's designated bank account, and to furnish proof of payment (an original deposit slip or an electronic payment confirmation) at the distribution point before collecting the form. Applicants will be required to submit a brief set of biographical details at the distribution point, such as the name, company registration number, contact details and the like. On completion, and on proof of deposit of application fee, applicants will be provided with a hard copy of a numbered application form.

Clusters C and D

In **Clusters C and D**, application forms will be distributed at various advertised regional venues along the coastline. Applicants will be required to deposit the application fee into the Rights Verification Unit's designated bank account, and to furnish proof of payment (an original deposit slip or an electronic payment confirmation) at the distribution point. Applicants will be required to submit a brief set of biographical details to the staff members at the distribution point, such as name, identification number, close corporation number (if applicable), contact details and the like. On completion, and on proof of deposit of the application fee, applicants will be provided with an application form.

(h) Application fees

The Minister, in consultation with the Minister of Finance, is responsible for setting application fees. The policy regarding application fees will be settled after a separate public consultation process.

(i) Verification by Auditors

Applicants in the **Cluster A** fisheries will be required to engage independent auditors to verify the information provided in certain components of their own application forms. The relevant professional body will determine procedures for the verification process. This does not apply to **Clusters B, C and D**.

(j) *Receipting*

In **Cluster A**, applicants will be required to submit the completed CD and printed version of the application, annexures and copies by hand at a stipulated venue and during a specified period in Cape Town.

In **Cluster B**, applicants will be required to submit the completed application forms, annexures and copies by hand at a stipulated receipting venue and during a specified period in Cape Town.

In **Cluster C**, applicants will be required to submit the completed application forms, annexures and copies by hand at various pre-advertised regional receipting points along the coastline during a specified period.

In **Cluster D**, applicants will be required to submit the completed application forms, annexures and copies by hand at various pre-advertised regional receipting points along the coastline during a specified period. The receipting points will be the same as the distribution points and distribution and receipting will occur at the same venue and during the same period.

(k) *Copies*

Cluster A

Cluster A applicants will be required to complete their application form electronically and save it on to the CD's provided for this purpose. Applicants will be required to print out a hard copy version of the completed application form. The printed version has to be signed and the declaration must be attested to before a commissioner of oaths. This version must then be photocopied. In total, applicants will be required to hand deliver at the stipulated venue and time period:

- One copy of the electronic version of the application saved on the CD provided for this purpose;
- A print-out of the electronic version, duly signed and commissioned, with the required schedules in the form of annexures; and
- A copy of the signed and commissioned printed version of the application and the annexures.

Clusters B, C and D

The applicant or authorised representative of a **Cluster B, C and D** applicant will be required, after the application form is completed, to sign the declaration and to attest to it before a commissioner of oaths. This application form, together with its annexures must be photocopied and both original and copy must be submitted.

(l) Design of criteria and weighting

Information submitted by applicants will be captured on a database. The policies, the database and information submitted by way of annexures, will be then be used for the development of detailed criteria and weighting for each sector for the purposes of assessing the applications and thereafter the allocation of quantum or effort.

(m) Information to be considered

The approach set out below will be adopted by the delegated authority and the appellate authority regarding information to be taken into account for assessing the applications.

(i) Parts of application form not completed

Unless otherwise indicated, if a part of the application form is not completed, it will be assumed that that part of the form does not apply to the applicant. If the section has positive points associated with the answer, no points will be awarded.

A specific icon (the "warning sign" icon) will be used to indicate where, if not completed, an answer adverse to the applicant will be assumed. For example, if left blank, it will be assumed that the applicant answered "yes" to a question such as: "Have you ever been convicted of an offence under the MLRA"? The warning sign icon may also be used to indicate that if the answer to a positively framed or an open-ended question is left blank, it will be assumed that the applicant answered the question negatively. For example, if left blank, it will be assumed that the applicant answered "no" to a question such as: "Have you participated as a crew member on a vessel that operated in a limited or full commercial fishery?"

(ii) Late information

Information submitted after closing day will not be considered, unless requested by the Rights Verification Unit, the delegated authority or the Minister as part of the rights allocation or the appeal process. The approach to

the submission of additional information on appeal is described below.

(iii) Information from external sources

Prejudicial information about an application received from external sources will not be taken into account by the Minister or the delegated authority unless the applicant is afforded the opportunity to make representations in respect of that information.

(iv) Use of Departmental databases

The Minister or the delegated authority may use information contained in the Department's own databases during the long term rights allocation process, but will do so only to the extent that applicants were afforded the opportunity to make representations concerning the correctness of the data.

(v) Submission of false information or documents and non-disclosure

Applicants or their authorised representatives are required to attest to a declaration before a commissioner of oaths stating, amongst other things, that they have not submitted false information or false documents and that they have not failed to disclose material information. The submission of false information or false documents or the failure to disclose material information will constitute a independent ground for refusing an application.

It will be assumed that an applicant has provided false information if there is a material discrepancy between the information provided by the applicant and the information contained in databases held by the Department and where both versions cannot be correct. It will further be assumed that an applicant has provided false information when there is a material discrepancy between the information provided by the applicant in the original application and information provided by the applicant on appeal, and where both versions cannot be correct.

In addition, the making of a false statement in an attested declaration, knowing it to be false, constitutes a criminal offence.

(vi) Copies of documents

Applicants will not be required to have any copy certified as a true copy but it will be assumed that any copy submitted is an exact replica of the original.

(n) *Calls for further information, investigations and consultation*

The Minister or the delegated authority may invite applicants to make oral submissions or to present further information in writing if there is uncertainty concerning a material issue in a substantial number of the applications. If oral hearings are held, legal representatives will be permitted to address the Minister or the delegated authority.

The Minister or the delegated authority may request the Rights Verification Unit to investigate any matter, including the correctness of information provided. Applicants must co-operate with investigators by timeously submitting responses to written requests for information or explanations, by attending meetings with investigators, by answering questions satisfactorily at such meetings, and where necessary, by granting investigators access to premises, vessels and documents. The failure to co-operate will constitute an independent ground for refusing an application.

(o) *Support for delegated authorities*

The delegated authority responsible for the decisions on the applications in a sector may be supported by an "Advisory Committee", and also by professional project managers, consultants and legal practitioners. The role of the Advisory Committees will be determined by the delegated authority. The Advisory Committee may be called upon to assist in the assessment of the applications under the supervision of, and in accordance with the criteria and weighting determined by, the delegated authority.

(p) *Provisional lists*

The delegated authority may issue provisional lists for comment on any aspect in any sector. So, for example, in **Clusters C and D** the delegated authority may request comment on whether the provisionally successful applicants are dependent on the resource and on the basis of the comments received make a final decision.

The delegated authorities for **Cluster A and B** fisheries may invite representations regarding the assessment of the applications before making final decisions. In these sectors, delegated authorities may consult with interested and affected parties on the method of allocating quantum or effort before taking these decisions.

(q) *Notification of decisions and the reasons*

After the delegated authority has made decisions on the allocation of rights and quantum or effort, the Department will notify an applicant in writing of the decision on the application. In addition, the Department will publish the results electronically and communicate the results through recognised industrial bodies and interest groups.

Unsuccessful applicants

Unsuccessful applicants will receive the following together with the letter informing them of the outcome of the application:

- The General Published Reasons which will record the criteria, the decision-making process and the methodology pertaining to decisions on quantum or effort;
- A specific reason why the application was unsuccessful;
- An appeal form, which applicants must submit together with the appeal;
- A notification of the closing date, details of the appellate authority and other formal requirements for the submission of appeals; and
- A copy of any final score sheet used to record the assessment of the application.

In addition, the following documents will be automatically available for inspection or purchase at the prescribed fee:

- The Spreadsheet of Decisions which contains a summary of the assessment of all the applications in a sector;
- Final Score sheets of other applicants; and
- The decision-making lists of the delegated authority or the Minister.

The specific reason contained in the notification letter to unsuccessful applications, together with the General Published Reasons, the final score sheet and the information that is automatically available, constitute the reasons for a decision to refuse an application.

Successful applicants

Successful applicants will receive the following together with the letter informing them on the decision on their application:

- The General Published Reasons which will record the criteria, the decision-making process and the methodology pertaining to decisions on quantum or effort;
- An Appeal Form, which applicants must submit together with an appeal on quantum or effort;

- A notification of the closing date, details of the appellate authority and other formal requirements for the submission of appeals;
- A copy of any final score sheets used to record the assessment of the application; and
- A set of generic permit conditions that are applicable to the specific fishery.

In addition, the following documents will be automatically available for inspection or purchase at the prescribed fee:

- The Spreadsheet of Decisions which contains a summary of the assessment of all the applications in a sector;
- Final Score sheets of other applicants; and
- The decision-making lists of the delegated authority or the Minister.

The General Published Reasons, the final score sheet and the information that is automatically available, constitute the reasons for decisions to grant an application for a commercial fishing right and to award quantum or effort.

(r) Appeals

Every applicant will have the right to appeal against the decisions of the delegated authority. The appeal may be lodged against a refusal to grant a right or against the decision on quantum or effort. Details about the submission of appeals will be contained in the notification letter.

The appellate authority will consider the facts as they were at the closing date for applications and will not take into account facts that came into existence thereafter. For example, if an applicant made an investment in a vessel after the closing day for applications that fact will not be taken into account when considering the appeal.

Once a decision is taken, the appellant will be informed of the appellate authority's decision in writing.

(s) Access to information

The following records will be automatically available for inspection or purchase at the prescribed fee after the results are announced:

- Any score sheet, spreadsheet or other document used by the delegated authority, the Minister, or their assistants, to record the assessments of the applications; and

- At the request of the applicant or its authorised representative, the applicant's own application or appeal documentation.

Requests for access to the following records will be dealt with under the Promotion of Access to Information Act 2 of 2000:

- The application form of another applicant;
- The annexures submitted together with an application of another applicant; and
- Appeal documentation submitted by another applicant.

In respect of access to these records, the Department's information officer (the Chief Director: Resource and Coastal Management) will apply the procedures and provisions of PAIA. In order to assist with the administration of access to information applications, applicants will be required to submit certain documents in respect of which the information officer may refuse access, such as those relating the applicant's fishing plans, marketing plans and financial statements, in a separate folder.

6.4 Decision-making

All decisions will be based on the applicable laws and guided by the applicable policies. The policies and the database compiled after the applications are received, will be used to develop more refined criteria and weighting for purposes of the assessment of the applications. These criteria are developed with reference to data received after closing day and are accordingly not released before the allocation process.

(a) *Criteria used for decision-making on the allocation of rights*

The Department expects a large number of applications for long term rights and anticipates that, given the current limits on catch or effort in all the fisheries, not applicants will be granted rights. Some applicants will be rejected because they do not meet the basic requirements. The rest are ranked according to a set of objective criteria in order to identify the best applicants in terms of the policies and weighted criteria. The process is competitive and the aim is to identify the best applicants.

Four types of criteria will be used to assess the applications.

Applications will be screened in terms of a set of "*exclusionary criteria*", and thereafter ranked in terms of a set of "*weighted balancing criteria*". In addition, and in some sectors, the delegated authority may employ one or

more of a number of "*tie-breaking factors*" in order to make a decision if there are too many applicants with the same score. A proportion of the TAC or TAE will then be allocated to each successful applicant in terms of a set of "*quantum or effort criteria*".

(i) Exclusionary criteria

Three types of exclusionary criteria will be employed.

Firstly, an application will be screened to determine whether it was properly lodged. An application is improperly lodged if it was received late; if the applicant made no payment or short payment or late payment of the application fee; or if it was lodged in a manner contrary to the instructions, such as by fax, or on a form other than the official prescribed application form. The delegated authority and the Minister has no discretion to condone non-compliance with the lodgement requirements.

Secondly, an application will be screened to determine whether it is materially defective. An application is materially defective if the declaration is not signed by the applicant, or if the applicant's declaration was not attested to by a Commissioner of Oaths, or if more than one application was received from the applicant for a fishing right in the same sector, or if the applicant provided false information or false documents, or failed to disclose material information, or attempted to influence the Minister or the delegated other than in the manner provided for in this General policy during the application period. In Cluster A, independent auditors are required to verify certain responses by the applicant and to prepare and sign a report in this regard. If the applicant relies on information provided by holding companies or other members of a group of companies or joint venture partners, the authorised representatives of these entities are also required to sign and to attest to a declaration. The application will be also be materially defective if a report of the independent auditor is not provided and signed (if applicable) or if the declaration of the authorised representative of the holding company, member of a group of companies or joint venture partner is not signed and attested. The delegated authority and the Minister has no discretion to condone non-compliance with the requirements relating to materially defective applications.

Thirdly, an application will be screened to determine whether an applicant meets the minimum essential requirements for participating in the sector. The delegated authority and the Minister has no discretion to condone non-compliance with an essential requirement for participating in the sector. The essential requirements differ from sector to sector. For example, in the previous allocation process for abalone divers, applicants were required to demonstrate, amongst others, that the applicant was a qualified diver and certified

as a Class I (with surface supply), II or III Commercial Diver under regulation 14 of the Regulations promulgated under the Occupational Health and Safety Act, 1993 (GN Regulation 10 of 11 January 2002).

(ii) Balancing criteria: new entrants and medium term right holders

Applications that were properly lodged, not materially defective and that meet the essential requirements will be scored in terms of set of balancing criteria (*"the balancing criteria"*). The balancing criteria will be weighted for purposes of ranking the applicants. Some of the criteria, such as transformation, will apply across all sectors, while others will be sector specific.

The applications from medium right holders will not be scored in terms of the same criteria and weighting as potential new entrants and will be ranked separately. Cut-offs will then be determined separately for medium term right holders and potential new entrants. All applicants with a score equalling or more than the cut-off will be allocated rights.

(iii) Tie-breaking factors

If there are too many applicants with the same score, the delegated authority may use tie-breaking criteria, in order to choose between the applicants with the same score. The tie-breaking factors may comprise of criteria not scored or scored criteria differently weighted.

(b) *Criteria used for awarding quantum or effort*

There are two separate decisions. After the decisions identifying the successful applicants are taken, the delegated authority will decide on the allocation of quantum or effort to each successful applicant in line with the policy described in paragraph 7.2 below.

PART C: CROSS CUTTING POLICY CONSIDERATIONS FOR THE ALLOCATION OF RIGHTS

7. Policy Considerations

This General policy must be read with the fishery specific policy adopted for each fishing sector. The latter prevails over the former, if more specific in respect of a particular sector.

The policy considerations set out below, along with the database compiled after applications are received, will guide the delegated authority in developing detailed exclusionary criteria, the balancing criteria for medium term right holders and potential new entrants and the tie-breaking factors. The Fishery specific policies will provide further guidance in this regard.

This General policy and the fishery specific policies do not lay down hard and fast rules or cover every aspect and consideration that will be taken into account in determining and applying criteria for balancing, tie-breaking and determining quantum or effort. Delegated authorities will be empowered to develop and refine criteria as long as these may be inferred from, and are consistent with, the applicable laws, this General policy and the applicable fishery specific policy.

Unless otherwise specified in the application forms, only information pertaining to the applicant will be taken into account. In respect of transformation, job creation and investment and other specified aspects, applicants that form part of a group of companies or joint venture, may be required to submit data about the group or joint venture (and not the data of the applicant alone).

7.1 Duration of right

Long term fishing rights will be granted in all the commercial fisheries, for a period of up to 15 years, except in the Oysters and White Mussel fisheries, which are in an early stage of development.

The duration of rights will be determined by, amongst other things, the level of transformation in the fishery, the current knowledge of the biological status of the target species; the capital intensity of the fishery and the need to encourage further investment and economic growth, and the performance of participants in the fishery.

7.2 Form of right holder

Section 18 of the MLRA provides that only South African persons may hold fishing rights. Section 1 of the Act defines a South African person as a South African citizen or a company, close corporation or trust. Therefore, fishing rights may not be allocated to entities such as partnerships, associations, joint ventures, community associations or co-operatives.

In terms of this policy, commercial fishing rights in the Cluster C and D fisheries will be granted only to individuals (natural persons), except in the Hake Handline and KZN Beach Seine sectors, where close corporations will also qualify. Individuals who were members of close corporations, shareholders of companies and beneficiaries of trusts when these entities were allocated medium term rights in 2001 and 2002

in Cluster C and D fisheries (except Hake Handline and KZN Beach Seine) will be considered to be medium term right holders for the purpose of the long term rights allocation process. The delegated authority may regard other individuals as medium term right holders if, for example, they obtained control over a medium term right, by way of a transfer approved by the responsible authority.

In terms of this policy, commercial fishing rights in the Cluster A and B fisheries will be granted only to entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Medium term right holders that operated in the form of trusts or co-operatives or sole proprietorships, must take steps to convert to a close corporation or a company before the allocation process and nominate the new entity as the applicant. The nominated close corporation or company will be treated as an existing right holder, provided that such an applicant demonstrates that the close corporation or company will be the sole successor of the previous right holder. A right will be granted to the new entity and not to the individual or the trust. This policy does not mean that a trust is precluded from holding shares in an applicant or right holder.

In some fisheries, applicants will be encouraged to merge or to share resources after the allocation process. Further details are provided in fishery specific policies.

7.3 Transformation

The MLRA requires decision-makers to have regard to the need to restructure the fishing industry in order to address historical imbalances and to achieve equity within all the branches of the fishing industry. Transformation is also a constitutional imperative in South Africa. The Broad-Based Black Economic Empowerment Act 53 of 2003 is one of a number of statutory instruments giving effect to this constitutional imperative. This Act provides that the Minister of Trade and Industry may by notice in the Gazette issue codes of good practice on black economic empowerment. Draft codes on certain aspects have been published for comment. The codes provide for a "*balanced scorecard*" to measure progress and status within enterprises as well as the adoption of transformation charters for specific sectors of the economy by the major stakeholders in those sectors.

The Act and the draft codes were considered in the development of this policy and the fishery specific policies. However, owing to the nature of the rights allocation process, the Minister of Environmental Affairs and Tourism has thus far not encouraged the adoption of charters for fishing sectors and has not adopted the weighting and benchmarks set in the draft codes relating to ownership and management. When allocating fishing rights, the delegated authority is called upon to compare applicants with each other, rather than against an external benchmark. Transformation is an extremely important consideration in this comparative balancing

process. The process is competitive and no “benchmark” can be set in advance. In a sector that is not sufficiently transformed, applicants with higher transformation scores than others will always stand a better chance of being allocated a right or a larger proportion of the available TAC or TAE. The policy is that within such a competitive comparative process, the adoption of charters or benchmarks is not always the appropriate vehicle to further transformation.

The policy is to further transformation and to improve on the levels of transformation achieved during the medium-term rights allocations. In the long term rights allocation process, only quality transformation will be recognised, that is, transformation which results in real benefits to historically disadvantaged persons.

Persons were historically disadvantaged in the fishing industry on account of their race in respect of access to rights. It is accordingly necessary to promote the participation of such historically disadvantaged persons within all branches in the fishing industry. It is also necessary to address historical imbalances and achieve equity within the fishing industry insofar as the participation of women is concerned, as they too, were marginalised in the past. In the allocations process the race and gender of applicants, and in the case of juristic persons, the race and gender of the applicant's shareholders or members, management, suppliers and workforce, may therefore be taken into account. This will be done in the manner described below. In addition, corporate social investment may be taken into account in the manner described below.

In **Cluster A**, applicants will be required to engage external auditors to verify the information submitted in terms of a set of prescribed procedures.

(a) Race

Persons historically classified as “African”, “Coloured” and “Indian” will be considered to be historically disadvantaged on account of race, provided that they are South African citizens by birth or obtained citizenship prior to 27 April 1994.

In **Clusters C and D**, a fixed number of points will be allocated to black applicants. Where close corporations qualify (hake handline and KZN Beach Seine), the close corporation applicant will be granted a percentage of the points allocated with reference to the percentage of the membership interest held by black persons in the close corporation. Black management, employment equity, affirmative procurement and corporate social investment may also be considered in **Clusters C and D**.

In **Clusters A and B**, points will be allocated for black ownership and management, in the manner described immediately below.

(i) Ownership

Beneficial ownership of the applicant by black people, in the form of unrestricted voting rights and economic interest associated with equity ownership, will be assessed and taken into consideration. In determining whether voting rights and economic interest is "*unrestricted*" the delegated authorities may have regard to draft Code 100, published for comment in terms of the Broad-based Black Economic Empowerment Act. The weighting set out in the Code will not be used.

The flow-through principle, proposed in Code 100, may also be used, if appropriate. For example, if company A holds 20% of the shares in company B and company A is 10% owned by the designated race groups, its share contributes 2% to the economic ownership of company B of such groups. If company A held 55% of company B's share and company A was 60% owned by blacks, it contributes 33% to B's economic ownership by black persons.

Additional points may be allocated to those applicants that have succeeded in empowering employees through share participation schemes, provided that the applicant can demonstrate that the employees derived real benefits (such as dividends) from the scheme.

In the case of applicants for medium term rights (successful or unsuccessful), points may be attached to both present status and progress made. The delegated authority may set a level of transformation for achieving the maximum number of points for black ownership. The maximum number of points for ownership by blacks will then be awarded to applicants that achieved that level.

(ii) Management

The senior or executive management of an applicant entity by black persons will be taken into account. Senior or executive management generally describes those persons responsible for guiding the strategic activities of the company and who report directly to either the managing director or the Board. For purposes of the long term rights allocations process, the management of the applicant will be assessed in three ways. First, the data submitted in employment equity reports will be considered, if available. If not available, applicants will be requested to submit similar data. Second, the composition of the board of directors will be taken into account. Third, applicants will be required to submit data concerning the top salary earners of the applicant.

(b) Gender

If practical, beneficial ownership and management by women will be taken into account in **Clusters A and B**. In **Clusters C and D**, gender may be taken into account, for example, as a tie-breaking factor.

(c) Employment Equity

Applicants who are required by law to comply with the Employment Equity Act 55 of 1998 must demonstrate that they comply. The number of black persons and women employed by the applicant may also be a balancing criterion. More points will be allocated to blacks and women employed at the higher end of the applicant's salary bands or in professional and skilled positions, than at the lower end and in unskilled positions. For example, applicants may be required to specify the percentage of persons of blacks and women in the top 10% of their salary earners, between the top 10% and the top 30%, between the top 30% and the top 50%, and below the top 50%, or to specify the number of blacks and women appointed in professional and other skilled positions. More points will be allocated for blacks and women in the top earning brackets than at the bottom earning brackets and more points will be allocated for blacks and women appointed in skilled positions than unskilled positions. Because of the racial structuring of the South African workplace, wage differentials may be taken into account.

(d) Skills Development

Applicants will be required to demonstrate that they comply with the Skills Development Act 97 of 1998 and the Skills Development Levies Act 9 of 1999. If an applicant participate in learnership programmes or spends proportionately more on the training of blacks, this factor may be taken into account.

(e) Affirmative Procurement

Affirmative procurement (procurement from black companies) may be considered as a factor.

(f) Corporate Social Investment

The percentage of net profit spent on corporate social investment during the previous rights period, may be taken into account. Tax-deductible donations will be considered to be corporated social investment but other donations may also be considered.

7.4 Multi-sector involvement

In general, it is not a policy objective to preclude or discourage the holding of rights in more than one fishery. This is subject to two exceptions.

Firstly, right holders in the **Cluster A and B** fisheries (including their controlling shareholders or members and members of their executive management teams) will not be allowed to hold commercial rights in the **Cluster C and D** fisheries, which are fisheries reserved for small and medium enterprises and individual fishers reliant on those fish stocks for their livelihood. Right holders in **Clusters C and D** who intend to obtain shares or interests in **Cluster A and B**, after allocations, may be permitted to transfer their **Cluster C and D** rights to other natural persons. The delegated authorities for the transfer of rights will consider applications for such transfers.

Secondly, right holders will not be permitted to hold rights in more than one **Cluster C or D** fishery, except that:

- Right holders may hold any combination of the following rights: white mussel, west coast rock lobster (near shore) and netfish (Gill and Treknet and Beach Seine);
- A KZN Beach Seine right may also be held with an oyster right.

7.5 Consolidation

Between 1994 and 2004, the number of right holders in the commercial fisheries increased dramatically. When allocating rights, there was a particular regard to the need to permit new entrants, particularly those from historically disadvantaged sectors of society. As a result, in many sectors there are numerically representative levels of historically disadvantaged right holders. But numeric representivity does not always translate into broad-based and effective participation of historical disadvantaged persons in the fishing industry. The consolidation, rather than the proliferation of right holders, has become necessary in order to advance effective participation.

Consolidation is also necessary to rationalise the industry, to improve compliance and to reduce the administrative burdens and costs to the Department and right holders. This means reducing the number of entities, particularly those that share the same or similar shareholders and executive management team and physical addresses in a particular fishery. In a number of sectors, window periods will be opened after the allocation process where the Minister will look favourably at forms of consolidation, which do not undermine transformation. In the long term right allocation process, medium term right holders will not be permitted to

proliferate within the same sector by applying for additional rights under a different guise and may not hold shares in potential new entrant applicants.

7.6 New entrants

The issue of new entrants is a fishery specific one and is dealt with in the fishery specific policies. A distinction is drawn, in the Fishery specific policies, between "*additional*" entrants and "*new entrants*". In order to permit the participation of additional entrants the number of participants in a sector will have to be increased from the existing number. In general, there is very little room to accommodate additional entrants because most of the fisheries are already over-subscribed. However, new entrants may be accommodated through the replacement of unsuccessful right holder applicants. This will be done if current right holders have failed to transform meaningfully, or if current right holders have failed to perform or invest adequately, or if the current effort within a specific fishery is considered to be less than optimal. In some sectors, in order to consolidate the right holders in a sector, the number of participants will be reduced by not granting rights to low scoring existing right holders, and not replacing them with new entrants.

As a general rule, the Department will not allow right holders who sold or in any way alienated a fishing right to re-enter that commercial fishery. The same applies to shareholders or members of close corporations who sold a significant share of the right holder.

7.7 Performance

The performance of existing right holders may be assessed in the manner described below.

(a) Financial performance

Financial performance of the applicant may be assessed in terms of a set of financial ratios which lend themselves to benchmarking backed up by audited financial statements. The financial statements may also be used to determine who the real beneficiaries of the allocation are ("follow-the-buck" principle) and to determine whether the right holder has invested in the industry.

(b) Payment of levies

Applicants be required to provide proof that they are up to date on the payment of their levies on fish landed during the medium term right period. If levy payments have been outstanding for a period in excess of 60

days, the applicant may be penalised. Should the applicant nevertheless succeed in being granted a right, the Department will not issue a permit until the full amount outstanding is paid.

(c) Compliance

Applicants convicted for serious infringements of the MLRA, the Regulations, permit conditions and other fishing related offences, during the medium term right period, may be excluded. Minor infringements, including the payment of admission of guilt fines, may be taken into account as a balancing criterion.

Vessels listed on the negative lists of any Regional Fisheries Management Organisation ("RFMO") will not be allowed to harvest fish stocks. Applicants who own (wholly or in part) or nominate vessels that are negatively listed will be rejected.

The Department's records relating to infringements of the MLRA will be made available for inspection prior to the allocation process.

(d) Fishing performance

The fishing performance of medium term right holders may be examined to determine whether an existing right holder applicant has effectively harvested a medium-term allocation. Applicants that did not harvest any fish during a fishing season or who have not collected a permit for an entire season may be excluded. Undercatching and overcatching may be used as balancing criteria in certain sectors.

The Department's records relating to catch returns will be made available for inspection prior to the allocation of rights, if they are to be used in the allocation process.

7.8 Investment

Investment in a vessel nominated to harvest the resource and other fixed assets will be recognised as long as that investment demonstrates a genuine intention to share the risk of participating in the sector. Shareholding in vessels obtained at minimum or no cost to the applicant, will not be recognised as investment. The level of investment will be assessed with reference to the quantum held during the medium term rights allocation process.

7.9 Paper Quotas

The delegated authority must endeavour to prevent paper quota applicants from entering the industry and to remove paper quotas that currently hold rights. Paper quotas undermine or circumvent the objectives of the rights allocation process.

(a) New entrants

In the long-term rights allocation process, the delegated authority will exclude new entrant applicants who appear to be paper quota risks. For this purpose, the delegated authority will consider an applicant to be a "*paper quota risk*" if that applicant appears to have no serious intention to share the risk of fully participating in the sector, especially if a danger exists that an applicant has not applied in order to enter the industry but to gain some financial benefit without direct involvement in the main activities associated with exploiting any right that may be granted. In determining whether a new entrant applicant poses such a paper quota risk, the applicant's assets and access to capital and its financial and business planning and commitments should be considered.

The delegated authorities will also exclude as "*paper quota risk*" applicants considered to be "*fronts*" for other beneficiaries. Fronting occurs when, in order to circumvent a policy objective, an application is made through another entity. An example is an application made by an ostensibly transformed entity with the intention that the main benefits will flow to an untransformed entity or individuals that are not black persons.

(b) Medium term holders

Delegated authorities will also exclude medium-term right holders who are paper quotas. For this purpose, the delegated authorities will consider as paper quotas, medium-term right holders with weak or non-existent performance records combined with no investment or involvement.

Delegated authorities will also exclude "*fronts*" and will for this purpose employ the "*follow the buck*" principle to determine whether a policy objective has been circumvented. For example, delegated authorities will seek to determine whether ostensibly transformed right holders have in fact granted any financial or other benefit to black shareholders or members. This kind of front will not be re-allocated rights.

As a general rule, delegated authorities will not allow right holders who have sold or in any way alienated a fishing right to re-enter that commercial fishery under a different guise.

(c) Clusters C and D

In **Cluster C and D** sectors, large groups of identical or very similar applications sponsored by third parties, will be excluded as paper quota fronts. In general, no more than one right will be allocated per household. In these sectors, applicants will be required to disclose their relationship to other applicants in the sector. If more than one member of a household applies for a right, all the applications from that household may be excluded, unless the applicants clearly and convincingly demonstrate that they have established separate small commercial operations.

(d) Future right holders

After the long-term rights allocation process, the Department will endeavour to withdraw the rights of paper quota right holders by applying section 28 of the MLRA. As a rule, the Department will revoke fishing rights held by participants who fail to effectively utilise a right.

7.10 Value adding

Value-adding means those activities that add commercial value to fish, regardless of whether such value is attained on the South African or international market. Value-adding may be rewarded because, amongst other things, it stimulates the creation of jobs and wealth.

7.11 Enterprise development

Enterprise development constitutes measures to increase black ownership, management and skills in existing and new enterprises, including investment programmes and access to finance. These measures may be rewarded provided that they do not constitute attempts to circumvent the legislative protection of workers contained in the labour, health and safety laws.

7.12 Job creation

An important purpose of allocating long term rights is to create an environment conducive to job creation, in particular, the creation of more permanent and better quality jobs in the fishing industry.

Jobs created by medium right holders per ton allocated and increases in jobs as a result of the allocation of medium term rights, will be rewarded, at least in clusters A and B. The creation of permanent employment is favoured over seasonal employment and seasonal employment is favoured over contract employment.

7.13 Dependency and on-board participation

An important objective of the allocation of rights in **Cluster C and D** fisheries is to grant rights so that individuals can establish small commercial enterprises and create full-time occupations for themselves. Financial dependency on the income generated by fishing will therefore be a factor in most of the **Cluster C and D** fisheries. It will be a requirement that the applicant is personally involved in the fishing or harvesting of the resource. More particularly, "*on-board participation*" by the right holder will be a requirement in most of the

Cluster C and D fisheries. Only applicants incapable of participating due to a permanent physical disability will be exempt from this requirement. Women applicants will not be exempt from having to participate on board.

Current right holders will be required to provide proof of their dependency by way of financial statements and tax returns. Potential new entrants will be required to provide proof of dependency by demonstrating their historical involvement in the sector applied for or their involvement in the fishing industry.

7.14 Local economic development and geographic justice considerations

Delegated authorities may reward the landing of catches in fishing harbours outside the metropolitan areas to promote local economic development, although it may not be possible to achieve this objective in all sectors. In order to ensure that all fishing communities share in the resource, the delegated authorities may use landing site as a scoring or tie-breaking criteria. In addition, the Department may develop policies and a system of levy concessions that encourage rights holders to land or process fish in harbours that are economically depressed.

7.15 Vessels and fishing effort

(a) Vessels

If applicable to the sector, every applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of that particular fish stock or stocks. All vessels will have to be registered with the Department in order to be nominated as a catching vessel.

A suitable vessel will be described in the applicable fishery specific policy, but the minimum requirements for suitability will be:

- ☐ South African flagged (unless an exception is made in a Fishery policy);
- ☐ Unless exempted, fitted with an approved and functioning vessel monitoring system ("VMS");
- ☐ Registered by the South African Maritime Safety Association as being suitable for fishing; and
- ☐ Not listed on any RFMO negative list.

The Department will require all applicants for commercial fishing rights to utilise the nominated vessel for harvesting the resource. Vessel changes will only be allowed in appropriate instances.

(b) Fishing effort

The Minister and the Department is obliged to conserve marine living resources in terms of the MLRA and to apply precautionary approaches in respect of the management and utilisation of these resources. A key element in the management and conservation of marine resources is the limitation of applied fishing effort to ensure the optimum utilisation of such resources.

The Department is generally opposed to any further increase in vessel effort. Vessel overcapacity is regarded as one of the primary threats to South African fish stocks. It also places additional burdens on the Department, both in respect of monitoring and enforcing compliance and managing the exploitation of the resource. Subject to fishery specific policies, joint and cross-sectoral use of vessels is encouraged, as this will result in more effective and efficient use of vessels throughout the season.

On the other hand, it is recognised that ageing vessels must be replaced, inter alia for safety reasons. Modernisation of the fleet will inevitably result in an increase in catch capacity. Where necessary, effort limitations will be introduced to limit effort.

7.16 Safety of staff and crew

Applicants will be required to demonstrate that they have complied with the regulatory requirements of the South African Maritime Safety Authority Act 5 of 1998 and the regulations promulgated in terms of the Merchant Shipping Act, 57 of 1951.

In addition, applicants will be required to show that they comply with the Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993. Applicants are further reminded of the Department's directive that companies are required to adopt HIV/AIDS policies and may be required to attach these to the 2005 applications.

7.17 By-catch management and reduction measures and dumping

The reduction of and mitigation against unutilised and undersize by-catches is an important consideration. Delegated authorities may accordingly take into account measures taken and planned to mitigate against these types of by-catch. In some fisheries by-catch is unavoidable and constitutes an accepted part of a catch that requires appropriate management procedures. The Department will continue to develop policies that ensure improved assessment and management of by-catch species.

The Department is in the process of developing a comprehensive management plan regarding by-catch. In determining the appropriateness of by-catch mitigation and reduction devices the Department will consider its suitability to a fishery having regard to the nature of the fishery itself; the cost implications of mandating any particular device or mitigation strategy; the local and foreign comparative learnings; and inputs of local fishers and their role in developing such strategies (if applicable).

The Department encourages measures to minimize incidental bycatch of seabirds, sharks, marine mammals, juvenile fish and various vulnerable or threatened marine species. South Africa has developed a National Plan of Action (NPOA) for reducing incidental bycatch of seabirds as well as a draft NPOA for reducing incidental bycatch of certain species of shark. In this regard, the Department would strongly urge various fishing sectors to employ the use of mitigation devices such as, the tori-line (bird by-catch mitigation for longliners), escapement or exclusion devices for trawl sectors (escapement of juvenile fish and possibly marine mammals) as well as specific mesh sizes to curtail retention of juvenile fish in trawl nets. In addition, the Department strongly condemns the practice of high grading and dumping fish as well as deliberate targeting of by-catch species. The Department would further consider temporal and spatial closures for fishing, where it is deemed necessary for the protection of spawning stocks as well as protection of nursery grounds.

7.18 Environmentally sustainable practices

The delegated authorities may reward fishing operations that have embarked upon, and invested in or supported research into, environmentally sustainable best practices. In particular, the Department has identified the following issues as requiring attention:

- Introducing energy and fuel reduction mechanisms in factories and vessels;
- Reducing by-catches and bird mortality;
- Reducing light pollution; and
- Minimising the adverse affects of marine pollution.

7.19 Bait Fisheries

The delegated authorities will not allocate commercial rights for the purposes of bait collection. The only exception to this policy will be in the white mussel sector, which is still developing a commercially viable market for human consumption.

PART D: CROSS CUTTING POLICY CONSIDERATIONS FOR THE ALLOCATION OF QUANTUM OR EFFORT

8. Policy Considerations

In general, the decision to allocate quantum or effort is taken separately from the decision, although inter-linked, of identifying successful applicants. The considerations that apply to rights allocation apply in general to quantum decisions. In this part of the policy, additional considerations that apply to quantum decisions are set out. The policy considerations for the allocation of effort are dealt with in the sector specific policies.

8.1 Clusters A and B

The allocation of quantum in the Cluster A and B sectors is dealt with in the sector specific policies. In some sectors, the mechanism for allocating quantum will form the subject of further consultation, once the applications in a sector have been assessed and the successful applicants have been identified. Subject to the outcome of these consultations, the following principles will be applied in the allocation of quantum:

Firstly, quantum will be allocated with reference to the applicant's 2005 allocation. The delegated authority will determine a minimum amount to be allocated to new entrants, which as a general principle will not be less than the lowest amount allocated to a successful medium term right holder applicant.

Secondly, because it is government policy to support small business and broad based black economic empowerment, the Minister directs the delegated authorities to consider re-distributing at least 10% of the TAC to small businesses, which will include new entrant and medium term right holders. In considering whether to re-distribute to small businesses, the delegated authorities must have regard to the nature of the fishery and the level of transformation. In fisheries that are sufficiently transformed and representative of small businesses, re-distribution may be unnecessary. In fisheries that are capital intensive in nature and are accordingly not ideally suitable for small business development, the delegated authorities must endeavour to re-distribute at least 10% of the TAC to those right holders that have historically received smaller allocations but who have transformed and performed well.

Thirdly, and in addition to the above two principles, the delegated authority may allocate quantum based on criteria intended to achieve the objectives set out in the respective sector policies, such as transformation and performance. These criteria must be designed in a manner which should ensure that all successful applicants, regardless of size, will be able to benefit if they meet the criteria.

8.2 Clusters C and D

Successful applicants in **Cluster C and D** sectors will be allocated a fixed amount of the available TAC or TAE. This amount will not necessarily be the same for each zone or TURF.

8.3 Excess quantum left after appeals

Excess quantum left after appeals will be distributed proportionately.

8.4 Increases in the TAC/TAE

Increases in the TAC or TAE will be allocated in terms of the applicable provisions of the MLRA.

PART E: POST ALLOCATION MANAGEMENT CONSIDERATIONS

In this part, a number of post-allocation policy considerations are addressed in general terms. Although these policies will not be directly applied in the long-term rights allocation process, it is necessary to include them in this General policy in order to inform potential applicants of the Department's management objectives after the rights allocation process is completed.

9. Co-Managing the Commercial Fisheries

The Department is gradually introducing a change in the management and regulation of South Africa's commercial fisheries, by moving towards a system of co-managing the fisheries with right holders, fishing communities and other relevant stakeholders.

In terms of this approach, management of the commercial fisheries will not rest solely with the Department. The responsibility will be shared with right holders and, where applicable, with the coastal communities who rely on marine resources for their livelihood. A TURF (Territorial User Rights Fishery) system was introduced in the abalone fishery, and the Department is considering introducing a similar approach in some of the other fisheries, such as Hake Handline, West Coast Rock Lobster (Near Shore), Oysters, White Mussels and Netfishing.

As far as the larger commercial fisheries are concerned, the Department will seek closer working relations with recognised industrial bodies and interest groups to promote investment in fisheries research, management and compliance.

In order to facilitate co-management, Fishery specific **Management Working Groups** have been established in most of the fishing sectors. Right holders are represented on these Working Groups by industrial bodies and interest groups. The main purpose of a Management Working Group is to make recommendations regarding the management of the fishery, including permit conditions, closed seasons, restricted areas, the adoption and variation of sectoral management plans, compliance and vessel restrictions. As far as the larger commercial fisheries are concerned, the Department envisages sharing its biological and scientific research obligations of fish stocks and the impact of fishing on ecosystems with right holders through the Working Groups or other appropriate mechanisms.

Section 8 (1) of the MLRA provides that the Minister may, by notice in the *Gazette*, recognize any industrial body or interest group in a branch of the fishing industry which, in the opinion of the Minister, is representative of the specific body or group. A draft Policy on Recognised Industrial Bodies (*RIB's*) containing proposed recognition criteria will be made available for public comment, before the policy will be adopted. Where recognised industrial bodies exist, the Department may elect to communicate via the recognised industrial body only.

10. Levies and costs recovery

Levies are a fixed amount payable by right holders of commercial fishing rights per unit of fish landed and are therefore linked to the value of the landings. Levies are currently imposed in terms of section 29 of the Sea Fishery Act 12 of 1988.

Currently the income from levies is used to recover some of the costs that the Department incurs in managing the fisheries (including compliance and research costs). After the allocation process, the Department will investigate the feasibility of introducing a system of up-front levy payments or payment by monthly instalments on the basis of the proportion of Total Allowable Catch allocated (and not landed). The Department has also invited proposals for the introduction of a complete costs recovery system for the management of commercial fisheries.

11. Observer programme

The Department's current observer programme focuses on vessel and shore-based scientific monitoring and reporting. The Department intends to expand the role of observers in respect of compliance monitoring and reporting and to progressively increase observer coverage to as many commercial fisheries as is practically possible. The Department also intends to introduce new methods of ensuring compliance such as on-board cameras. Right holders will be expected to cover the costs associated with managing and implementing observer programmes.

12. Transfer of rights

Applications for the transfer of fishing rights are dealt with in terms of section 21(2) of the MLRA which provides that fishing rights may be transferred if approved by the Minister or his delegate.

If the members of a close corporation or shareholders of a company alienate some or all of their interests or shares, the fishing right remains with the same legal entity, and approval for the transfer of that right does not generally have to be obtained. However, any transfer of shares or of membership interest that results in a change of control over the juristic person holding a fishing right, requires approval. This is to prevent the circumvention of section 21(2) of the MLRA. In the case of a listed public company, a sale of more than 35% of the shareholding requires approval. If the right holder is an individual, an application for transfer must not only be made when the intention is to sell the right, but also when the right holder dies and the executor wishes to transfer the right to another person.

The current policy regarding the transfer of fishing rights is set out in Government Notice 1771 of 27 July 2001. This policy will be applied until replaced or amended after the allocation of long term rights. The following factors have been taken into account when considering an application for the transfer of a commercial fishing right:

- ☐ The death, dissolution, liquidation or sequestration of the right holder.
- ☐ Transformation.
- ☐ The promotion of consolidation of the number of right holders and effort in a fishery.

After the allocation of long term rights, "window" periods for the transfer of rights may be created where, in order to further transformation and consolidation, new entrants may be allowed to enter and existing rights holders may be allowed to merge.

13. Vehicle use in the coastal zone

Right holders that require the use of a vehicle in the coastal zone in order to operate effectively must apply for a permit in terms of the applicable Regulations. Right holders are advised to consider the Guidelines on the Implementation of Regulations Pertaining to the Control of Vehicles in the Coastal Zone: 2004. Both the Regulations and Guidelines are available from the Department (Chief Directorate: Fisheries Compliance) or from www.mcm-deat.gov.za. A permit fee of R500 is applicable and the permit issued will be valid for the duration of the commercial fishing right.

14. Marine protected areas and Fisheries management areas

14.1 Marine Protected Areas

The Department recognises marine protected areas as an important refuge for fish stocks under fishing pressure. At present these fish stocks include over 50 species of linefish and abalone. Marine protected areas are also recognised as an important tool to reduce illegal, unreported and unregulated fishing.

The Minister has designated a number of marine protected areas, protecting approximately 20% of South Africa's coastline. It remains the intention of the Minister and the Department to increase the extent of marine areas protected from fishing from the current 1% to the internationally determined 20% by 2015.

14.2 Fisheries Management Areas

Section 15 of the MLRA makes provision for the declaration of fisheries management areas for the management of a specified species and for the approval of a plan for the conservation, management and development of a fishery. The declaration of fisheries management areas is a further tool that may be used, in addition to the emergency measures provided in section 16 and priority fishing areas provided for in section 17, to better manage fisheries and to reduce user conflict.

15. Compliance and section 28 notices

The Department has invested in monitoring, control and surveillance ("MCS") equipment, including vessel monitoring and positioning systems, and has procured state of the art patrol vessels. The Department has further obtained the services of dedicated forensic auditing experts and specialised fisheries prosecutors.

The Department will increasingly focus on the prevention of transgressions and on self-regulation. This will be coupled with strict performance monitoring, forensic auditing, co-operation with other regulatory agencies such as the South African Revenue Service and the South African Bureau of Standards, and the application of stricter sanctions, including the revocation or suspension of rights in accordance with the provisions of section 28 of the MLRA. The Department has already concluded various memoranda of understanding with key regulatory enforcement agencies both nationally and internationally, to share information and monitor the export and import of fish products.

The Department will issue notices under section 28(1) and pursue the cancelling, revoking or suspending of fishing rights in terms of section 28(4) of the Act in all circumstances where the Department considers a breach of any provision of the MLRA, its regulations or permit conditions, to be significant. If a fishing right has been allocated and the right holder subsequently fails to pay any fee or levy imposed in terms of the applicable legislation, the Department will not hesitate to issue a notice under section 28 of the MLRA. In addition to revoking rights under section 28 of the MLRA, the Department is investigating methods of reducing quotas in cases of transgressions of the MLRA.

GLOSSARY OF TERMS

Application period	means the period commencing with the publication of the invitation to apply for a commercial right in the sector to the date on which the appellate authority finally decides the appeals in the sector.
Black persons	means Africans, Coloureds and Indians, provided the person is a South African citizen by birth or obtained citizenship prior to 27 April 1994.
Codes of Good Practice	means the Draft BEE Codes of Good Practice published by the Minister of Trade and Industry in 2004 in terms of the Broad-Based Black Economic Empowerment Act 53 of 2003.
Department	means the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management.
Medium Term Right Holder	means a right holder that was granted a medium term commercial fishing right during the period 2001/2002 – 2005 in the specific sector, or became a right holder in the sector by way of an approved transfer of the fishing right.
Minister	means the Minister of Environmental Affairs and Tourism.
New Entrant	means an applicant that is not a medium term right holder in the particular sector applied for.



DEPARTEMENT VAN OMGEWINGSKE EN TOERISME

TAK MARIENE- EN KUSBESTUUR

**ALGEMENE BELEID VIR DIE TOEKENNING EN BESTUUR VAN
LANGTERMYN KOMMERSIËLE VISVANGREGTE: 2005**

**HIERDIE BELEID MOET SAAMGELEES WORD MET DIE TOEPASLIKE
VISSERY-SPESIFIEKE BELEID (beskikbaar by www.mcm-deat.gov.za)**

Hierdie dokument is ook in Engels, isiXhosa en isiZulu beskikbaar

This document is also available in English isiXhosa and isiZulu

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Lencwadi iyatholakala nangolwimi lwesiNgesi, lwesiXhosa nolwesiZulu

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DEEL A: INLEIDING EN AGTERGROND

1. Inleiding

Hierdie **Algemene Beleid oor die Toekenning en Bestuur van Langtermyn kommersiële visvangregte** word deur die Minister van Omgewingsake en Toerisme: Tak Mariene- en Kusbestuur uitgereik en sal na verwys word as die **"Algemene beleid"**. Die Algemene beleid moet saamgelees word met die beleidsdokumente waarna verwys sal word as die **"Visseriespesifieke beleidstukke"** of **"Sektorspesifieke beleidstukke"** wat vir elke kommersiële en eksperimentele visvangsektor aangeneem is. In die Algemene Beleid word 'n aantal kwessies hanteer wat betrekking het op al die visvangsektore in paragraaf 2 gelys. Hierdie dwarssnydende beleidsaspekte, onderrig ook die inhoud van die Visseriespesifieke beleidstukke wat die Minister se spesifieke voornemens ten opsigte van die toekenning van regte in elke visserie uiteensit. Voornemende aansoekers en belanghebbende partye moet hierdie Algemene Beleid saam met die toepaslike Visseriespesifieke beleid lees.

2. Toepassing

Die Algemene beleid is van toepassing op die toekenning van regte in 19 kommersiële visserie: Diepsee stokvis-treilvisserie, Aanlandige Stokvis-treilvisserie, Maasbankers, Klein Pelagies, Patagoniese Tandvis, Suidkus-kreef, KwaZulu-Natale Steurgamaal-treilvisserie, Stokvis-langlyn, Weskus-kreef (Aflandig), Inkwis, Tuna-handlyn, Seewiere, Bodem- Haaie, Handlyn-stokvis, Weskus-kreef (Aanlandig), Oesters, Witmossels en Netvis (Treknet, Kiefnet en Strandseënet), en KwaZulu-Natal Strandseënet.

Die Algemene beleid is nie van toepassing nie op –

- Bestaansvisserie: 'n Aparte beleid sal aangeneem word, wat spesifiek oor die bestaansvisserie sal handel en wat die bestaansvisserie van Ooskus-kreef en Perlemoen in die Oos-Kaap sal insluit.
- Ontspanningsvisvang: 'n Aparte beleid sal aangeneem word wat spesifiek met ontspanningsvisvang sal handel.
- Visvang deur buitelanders.
- Visprosseringsondernemings: 'n Aparte beleid sal aangeneem word wat spesifiek met visprosseringsondernemings sal handel.
- Marikultuur: 'n Aparte beleid sal aangeneem word wat spesifiek met die regulering en die bestuur van marikultuur in Suid-Afrika sal handel.

- ❑ Nie-verbruikende mariene bedrywighede, insluitende boot-gebaseerde walvis besigtiging, haaihok-duik, sportduik en SCUBA-duik. Aparte beleidskrifte sal aangeneem word wat spesifiek met hierdie nie-verbruikende mariene bedrywighede sal handel.
- ❑ Tradisionele Lynvis: 'n Aparte beleid sal aangeneem word wat spesifiek met tradisionele lynvis sal handel.

Alhoewel hierdie beleid van toepassing is op Stokvishandlyn-, Weskuskreef- (Aanlandig), Netvis (Treknet, Kiefnet en Strandseënet), KwaZulu-Natal Strandseënet, Oester en Witmossel sektore, word aansoekers in daardie sektors aangeraai om op die vissery-spesifieke beleid te fokus vir die faktore wat in ag geneem sal word by die toekenning van regte. Dit sal noodsaaklik wees vir aansoekers in hierdie sektore om die vissery-spesifieke beleid te bestudeer voordat hulle aansoek doen.

3. Oogmerk

Die Algemene Beleid, met die Vissery-spesifieke beleidskrifte, het ten doel om as gids te dien vir die langtermyn regtetoekenningsproses. Dit beskryf verder die kernfunksies van die Departement wat die regtetoekenningsproses ondersteun.

Die Minister beskou dit ook as noodsaaklik, ten bate van aansoekers, om die Departement se bestuursdoelwitte vir die onmiddellike toekoms uiteen te sit. Hierdie mag natuurlik later deur die Departement hersien word, indien dit wenslik geag word.

4. Wat onderrig hierdie beleid?

Die Algemene en Vissery-spesifieke beleidsdokumente word onderrig deur Suid-Afrika se internasionale regsverpligtinge, nie-bindende ondernemings op internasionale en streeksvlak, en die wetgewende raamwerk vir die toekenning van visvangregte.

4.1 Internasionale verpligtings in verband met die gebruik van volhoubare hulpbronne

Gedurende die *Wêreldspitsberaad oor Volhoubare Ontwikkeling (WBVO)* wat gedurende September 2002 in Johannesburg gehou is, het lande onderneem om visvoorraad in stand te hou, of te herstel tot vlakke wat die maksimum volhoubare opbrengs kan lewer. Die doel moet dringend bereik word ten opsigte van uitgeputte voorrade en indien moontlik, teen nie later as 2015 nie. Lande het ook onderneem om nasionale aksieplanne te ontwikkel en in werking te stel. Die WBVO het die behoefte geïdentifiseer om produktiwiteit en biodiversiteit

van belangrike en kwesbare mariene en kusgebiede binne en buite nasionale jurisdiksies in stand te hou. Die doel is om die ekosistels te beskerm, deur 'n benadering te gebruik wat verwoestende visvangpraktyke elimineer, mariene beskermde gebiede vestig en die stel van en toesig oor tyd- en gebiedsluitings om broeigronde gedurende broeitydperke te beskerm. Ingevolge die *Reykjavik Declaration* van 2001 en die Johannesburg Plan van Implementering wat uit die WBVO spruit, is Suid-Afrika verbind tot die instel van 'n Ekosistelsbenadering tot die bestuur van Visserye (EAF) teen 2010.

Die **Voedsel- en Landbou-organisasie se 1995- Kode van Verantwoordelike Visvangbedrywe** is 'n vrywillige instrument wat erken dat visserye, insluitende akwakultuur, 'n sleutelbron van voedsel, werkseleenthede, ontspanning, handel en ekonomiese welsyn vir mense dwarsdeur die wêreld verskaf en dus op verantwoordelike wyse bedryf moet word. Die Kode stel beginsels en internasionale standaarde van gedrag vir verantwoordelike praktyke met die oog op die versekering van doeltreffende bewaring, bestuur en ontwikkeling van lewende akwatiese bronne met die nodige respek vir die ekosistels en biodiversiteit. Die Kode erken die voedings-, ekonomiese, maatskaplike, omgewings- en kulturele belang van visvangbedrywe. Die Kode het ook gelei tot vier Internasionale Aksieplanne (IAPs). Hierdie IAPs is die IAP oor Kapasiteit, die IAP om Onwettige, Ongerapporteerde en Ongereguleerde (OOO) visvangbedrywighede te voorkom, af te skrik en te elimineer; die IAP om haai- byvangste te verminder en die IAP om die toevallige byvangste van seevoëls te verminder. As 'n staatsparty het Suid-Afrika onderneem en is verbind tot die toepassing van die Kode, asook die vier IAPs en om dit uit te voer, indien nodig, deur middel van 'n Nasionale Plan van Aksie. In 'n poging om die IAP te implementeer wat gerig is op die voorkoming, afskrikking en eliminering van OOO - visvangdrywighede, sal monitering en beheer oor visvangvaartuie versterk word.

Die Verenigde Nasies se Konvensie oor Seereg, 1982 ("VNKS") probeer 'n regsorde vir die wêreld se see en oseane daarstel om kommunikasie in internasionale waters te vergemaklik. Dit bevorder ook die vreedsame gebruik van die wêreld se see en oseane, die billike en doeltreffende gebruik van mariene hulpbronne, die bewaring van mariene lewende hulpbronne en die bestudering, beskerming en bewaring van die mariene omgewing. **Die Verenigde Nasies se Ooreenkoms oor Visvoorraad, 1995** vul die VNKS aan deur te spesifiseer hoe gedeelde visvoorraad (soos stokvis) en hoogs migrerende visvoorraad (soos tuna) ontgin en bestuur behoort te word.

Suid-Afrika is verder deel van 'n aantal **Streeksorganisasies vir Visserybestuur (SOVBs)** wat verantwoordelik is vir die bestuur en bewaring van gedeelde visvoorraad, insluitende tuna, swaardvis en Patagoniese tandvis. Hierdie organisasies sluit in die "International Commission for the Conservation of Atlantic Tunas" (ICCAT), die "International Commission for the Conservation of Southern Bluefin Tunas" (CCSBT), die "Indian Ocean Tuna Commission" (IOTC) en die "Convention for the Conservation of Antarctic

Marine Living Resources" (CCAMLR), die "South East Atlantic Fisheries Organisation" (SEAFO) en die "Southwest Indian Ocean Fisheries Commission" (SWIOFC).

As 'n lid van die Suidelike Afrikaanse Ontwikkelingsgemeenskap (SAOG) en veral as ondertekenaar van die SAOG-protokol oor visserye, is Suid-Afrika verplig om die volhoubare gebruik van gedeelde visvoorrade met die SOAG-buurlande te verseker. Hierdie gedeelde voorrade sluit stokvis, diepseevis, steurgarnale, lynvis en maasbankers in.

4.2 Die wetgewende raamwerk vir die toekenning van kommersiële visvangregte

Die transformasie van die visvangbedryf word grondwetlik en wetgewend vereis. Die vernaamste voertuig om transformasie in die Suid-Afrikaanse visvangbedryf te bevorder, is die Wet op Mariene Lewende Hulpbronne, 18 van 1998 (die "WMLH"). 'n Verdere belangrike doel van die WMLH is om voorsiening te maak vir die ordelike ontginning van lewende mariene hulpbronne en voorsiening te maak vir die uitoefening van beheer oor lewende mariene hulpbronne op 'n redelike en billike wyse tot voordeel van al die burgers van Suid-Afrika. Ingevolge artikel 2 van die WMLH, moet die Minister en enige staatsorgaan 'n aantal doelwitte en beginsels in aanmerking neem by die uitoefening van enige bevoegdheid ingevolge die Wet.

Hulle is:

- (a) *Die noodsaak om optimale benutting van ekologies volhoubare ontwikkeling van lewende mariene hulpbronne te bereik;*
- (b) *die noodsaak om lewende mariene hulpbronne vir sowel die huidige as toekomstige geslagte te bewaar;*
- (c) *die behoefte om voorkomende benaderings ten opsigte van die bestuur en ontwikkeling van lewende mariene hulpbronne te handhaaf;*
- (d) *die behoefte om lewende mariene hulpbronne te benut vir die bereiking van ekonomiese groei, menslike hulpbronontwikkeling, uitbreiding van vermoëns in visserye- en marienkultuurvertakkings, werkskepping en 'n gesonde ekologiese balans, in ooreenstemming met die ontwikkelingsdoelstellings van die nasionale regering;*
- (e) *die behoefte om die ekosisteem in geheel te beskerm, met inbegrip van spesies wat nie vir ontginning bestem is nie;*
- (f) *die behoefte aan die behoud van mariene biodiversiteit;*
- (g) *die behoefte om mariene besoedeling tot 'n minimum te beperk;*
- (h) *die behoefte om, vir sover prakties haalbaar, uitgebreide en toerekenbare deelname aan die besluitnemingsprosesse waarvoor hierdie Wet voorsiening maak, te bereik;*

- (i) enige tersaaklike verpligting van die nasionale regering of die Republiek ingevolge 'n toepaslike internasionale ooreenkoms of reël van die volkerereg; en
- (j) die behoefte om die visnywerheid te herstruktureer om historiese ongelykhede aan te spreek en om gelykheid binne alle vertakings van die visnywerheid te bewerkstellig.

Ten einde die hulpbron kommersieel te ontgin, moet 'n persoon of entiteit aansoek doen en 'n reg ontvang ingevolge die WMLH. Artikel 18 bepaal as volg:

- (1) Geen persoon mag kommersiële visvangs of bestaansgrondslagvisvangs onderneem, marienkultuur beoefen of 'n visverwerkingsaanleg bedryf nie, tensy 'n reg om so 'n bedrywigheid te onderneem, te beoefen of te bedryf deur die Minister aan so 'n persoon toegestaan is.

Die toekenning van regte was tot dusver die hoofmeganisme vir die bevordering van transformasie en om die ander beginsels en doelwitte uiteengesit in artikel 2 van die WMLH uit te voer. Om 'n reg uit te oefen wat ingevolge artikel 18 toegeken is moet daar 'n permit toegeken word aan 'n persoon ingevolge artikel 13 van die WMLH wat as volg bepaal:

- (1) Geen persoon mag enige reg toegestaan ingevolge artikel 18 uitoefen of enige ander bedrywigheid ingevolge hierdie Wet verrig nie tensy die Minister aan so 'n persoon 'n permit uitgereik het om daardie reg of bedrywigheid uit te oefen of te verrig.

Behalwe die WMLH, is die Algemene Regulasies, soos uitgevaardig in AK 1111 in die Staatskoerant 19205 van 2 September 1998 (soos gewysig) relevant. Hierdie regulasies bevat sekere prosedures wat verband hou met appèlle teen besluite in terme van artikels 13 en 18 van die Wet en die regulering van geslote seisoene en geslote gebiede, die gebruik van toerusting en die beperkinge op spesies. Die Regulasies handel verder oor die landing, vervoer, aflewering, ontvangs, prosessering en bemarking van vis en visprodukte, beheer en wetsnakoming, die laat van voorwerpe in die see, vishawe-regulasies en oortredings en strafbepalings.

Die WMLH en sy Regulasies is in 'n aantal hofbeslissings oor die medium-termyn regtetoekenningsproses geïnterpreteer en sommige hiervan het belangrike regsprecedente gestel. Hierdie beslissings is in aanmerking geneem met die ontwerp van die langtermyn regtetoekenningsproses.

Die Wet op Nasionale Omgewingsbestuur 107 van 1998 (WNOB) bied die raamwerk vir die aanvaarding van omgewingsbestuur en -beleid. Indien die optrede van 'n staatsinstansie die omgewing aansienlik beïnvloed is die beginsels wat in artikel 2 van WNOB uiteengesit word van toepassing.

5. Departementele funksies en Delegasies

5.1 Delegasie van bevoegdhede

Die WMLH ken magte toe aan die Minister van Omgewingsake en Toerisme (*"die Minister"*) en aan die Direkteur-Generaal (*"die DG"*). In die verlede het die Minister en die DG egter heelwat van hulle bevoegdhede gedelegeer aan beamptes in die Departement, insluitende die magte ingevolge artikel 13 (toekenning van permitte), artikel 18 (toekenning van kommersiële visvangregte), artikel 28 (kansellering, intrekking of opskorting van visvangregte / permitte), artikel 81 (toestaan en kansellering van vrystellings) en artikel 83 (die toelaat van eksperimentering en wetenskaplike ondersoeke).

'n Volledige stel van alle huidige delegasies is by die Departement beskikbaar of kan besigtig word by www.mcm-deat.gov.za. Die Minister is van voornemens om sy magte om visvangregte en permitte in die 19 kommersiële visvangsektore aan beamptes in die Departement te deleger. Die Algemene Beleid en vissery-spesifieke beleide is deur die Minister aangeneem ten einde die gedelegeerde owerhede te lei by die toekenning van visvangregte en permitte.

5.2 Kernfunksies van die Departement wat regtetoekenning ondersteun

(a) *Navorsing in Visserye*

Die Hoofdirekoraat: Navorsing, Antarktika en Eilande is verantwoordelik vir die bestuur van die uitvoering van hierdie funksie. Die hoofdoel van wetenskaplike navorsing is om die ekologiese volhoubare gebruik van visvoorrade te verseker en om mariene ekosistels te bewaar, met inbegrip van spesies wat nie vir ontginning geteiken word nie, soos robbe en seevoëls.

By uitoefening van wetenskaplike navorsing onderskryf die Departement Beginsel 15 van die Rio Deklarasie van die VN Konferensie oor Omgewing en Ontwikkeling (Rio de Janeiro, 1992) wat verklaar dat: *"Ten einde die omgewing te bewaar moet die State die voorsorgbenadering breedvoerig volgens hulle vermoë toepas. Waar daar ernstige of onomkeerbare skade dreig, sal die gebrek aan volledige wetenskaplike sekerheid nie as rede aangevoer word waarom koste-doeltreffende maatreëls uitgestel word om degradasie van die omgewing te voorkom nie"*.

Die Departement ondersteun 'n voorsorgbenadering tot alle visserye. Aangesien onsekerheid al die elemente van die visvangstelsel affekteer, is voorsorg op alle vlakke van die stelsel nodig.

Wetenskaplike navorsing is daarop gemik om die dinamika van visvoorrade te verstaan en onderrig die Totale Toelaatbare Vangs (TTV) of die Totale Ontplooide Vangspoging (TOV) of 'n kombinasie daarvan, wat bepaal word ingevolge artikel 14 van die WLMH. Die wetenskaplike werkgroepe is verantwoordelik vir die vertolking van voorraadontleding, wat op die verskillende visvoorrade uitgevoer word en hierdie vertolking onderrig uiteindelik die bepaling van die TTV/TOV. Wetenskaplike navorsing onderrig verder die aanwysing van mariene beskermde gebiede, die vasstelling van bestuursgebiede vir visserye, die bepaling van geslote gebiede, geslote seisoene, verbode visvangtipe, die minimum grote van spesies, vaartuig- en toerustingbeperking en visvangmetodes, insluitende voorkomingsmaatreëls vir byvangste. Wetenskaplike navorsing word ook gedoen ten einde nuwe visserye te ontwikkel, in lyn met die Departement se *Beleid vir Nuwe Visserye*.

Wetenskaplike werkgroepe funksioneer tans ten opsigte van elke visvangsektor. Elke werkgroep bestaan uit departementele wetenskaplikes asook eskterne deskundiges van ander mariene-wetenskaplike inrigtings soos instansies vir hoër onderwys.

Die meeste sektore word wetenskaplik bestuur ingevolge 'n Operasionele Bestuursprosedure (OBP). Ander word bestuur deur middel van jaarlikse bepalings.

(b) Bestuur van Visserye

Die Hoofdirektoraat: Visserye- en Kusbestuur is hoofsaaklik verantwoordelik vir die uitvoering van twee funksies. Eerstens, om die volhoubare en billike ontwikkeling, asook die gebruik van mariene lewende hulpbronne deur die administrasie van visvangregte, permitte, vrystellings en lisensies te fasiliteer en te reguleer. Tweedens, is sy funksie om die volhoubare gebruik van Suid-Afrika se kushulpbronne te optimaliseer, deur die mens se impak (anders as kommersiële visserye) soos ontwikkeling aan die kus, bestaansvisvang, ontspanningsvisvang, mariene besoedeling en mariene ekotoerisme, op die omgewing te beheer. Die Hoofdirektoraat word bygestaan deur spesialiste in die ekonomie en bestuur van visserye, olie- en mariene besoedelingsbestuur en kussonebestuur.

(c) Vissery- en kuswetstoepassing

Die uitvoering van hierdie funksie word deur die Hoofdirekoraat: Vissery- en kuswetstoepassing bestuur. Ten einde te verseker dat gehoor gegee word aan visvangwetgewing, gebruik die Hoofdirekoraat 'n aantal maatreëls wat daarop gemik is om wetsnakoming af te dwing en aan te moedig. Daardie maatreëls sluit in:

- ❑ Moderne diepsee en kuslyn omgewingspatroleringsvaartuie;
- ❑ Gespesialiseerde omgewingshowe;
- ❑ Waarnemerprogramme;
- ❑ Mariene beskermde gebiede;
- ❑ Vaartuigmoniteringstelsels;
- ❑ Openbare opvoedkundige programme;
- ❑ Mede-bestuur van visvoorrade;
- ❑ Indiensname van visserybeheerbeampes verantwoordelik vir die versekering dat alle visvangste plaasvind in 'n geregleerde en regmatige wyse en dat alle landings behoorlik aangeteken word;
- ❑ Ere-beheerbeampes vir die visvangbedryf; en
- ❑ Strategiese wetsnakomingsvennootskappe met nie-regeringsorganisasies, plaaslike regerings, bewaringsliggame en ander toepaslike staatsorgane.

(d) Toegang tot inligting

Die Departement se aangewese inligtingsbeampes vir doeleindes van die Wet op die Bevordering van Toegang tot Inligting 2 van 2000 ("WBTI") is die Hoofdirekteur: Navorsing, Antartika en Eilande, die Hoofdirekteur: Vissery- en Kusbestuur en die Hoofdirekteur: Vissery- en Kuswetstoepassing.

Groot volumes inligting oor vorige regtetoekennings, soos beleidsdokumente, rekords van besluite, algemene gepubliseerde redes en ander rekords soos wetsnakomingsdatabasisse, TTVs en TOVs is by die Departement beskikbaar. Sommige rekords is ook beskikbaar by visvangbeheerkantore of op die Departement se webblad (www.mcm-deat.org.za). Verdere inligting oor hoe om toegang tot hierdie rekords te kry, kan op een van die volgende maniere verkry word:

- Kontak die Departement se Kliëntesorglyn by 0861 123 626; of
- Besoek die Departement se Kliëntedienssentrum by die Foretrust-gebou, 2de Vloer, Martin Hammerslag-weg, Strandgebied, Kaapstad.

Soos in die verlede, na die beoordeling van aansoeke afgehandel is en die besluite aangekondig is, sal die meeste rekords gehou deur die Departement vrywillig beskikbaar gestel word en outomaties beskikbaar wees, soos bepaal in artikel 15 van WBTI. Met ander woorde, vorms vir die toegang tot inligting hoef nie ingevul te word nie. Rekords mag inspekteer word en afskrifte sal teen die vasgestelde fooi vir reproduksie verskaf word. Oor die algemeen sal die Departement slegs verg dat die vorms vir toegang tot inligting voltooi word, en sal slegs aansoeke vir toegang tot inligting beoordeel, waar toegang tot die rekords geskep deur derde partye (soos hulle voltooide aansoekvorms en hul bylaes) aangevra word. Die benadering tot toegang tot inligting word in groter besonderhede hieronder behandel.

DEEL B: METODE EN PROSES VAN TOEKENNING

6. Toekenning van visvangregte

6.1 Die regsraad van die visvangreg

Voordat die WMLH in 1998 in werking getree het, het die Departement visvang "kwotas" ingevolge die Wet op Seevisserye, 12 van 1988 toegeken. Artikel 18 van die WMLH maak nou voorsiening vir die toekenning van "visvangregte". Die regsraad van die "reg" wat ingevolge die WMLH toegeken word is soortgelyk aan die "kwota" wat ingevolge die Wet op Seevisserye toegeken is. Die "regte" wat ingevolge die WMLH toegeken word is nie eiendomsregte nie en behoort verstaan te word as 'n statutêre vergunning om 'n mariene hulpbron vir 'n bepaalde tydperk te oes. Gevolglik kom kansellasië of intrekking van die reg nie neer op onteiening binne die betekenis van artikel 25 van die Grondwet of die Onteieningswet, 63 van 1975 nie. Dit is duidelik uit artikel 18(6) van die WMLH, wat bepaal dat 'n visvangreg geldig is vir die tydperk wat die Minister (of sy gedelegeerde) bepaal, waarna dit outomaties terugval na die staat en weer ingevolge die toepaslike bepalings van die WMLH toegeken mag word.

'n Visvangreg word toegeken aan 'n spesifieke persoon of entiteit en in terme van artikel 21 van die WMLH mag die reg nie oorgedra word sonder die toestemming van die Minister of sy gedelegeerde nie. By die dood, sekwestrasie of likwidasië van die regtehouer, berus die reg onderskeidelik by die eksekuteur, trustee of likwidateur en mag die reg verder ontgin word vir die tydperk toegelaat deur die toepaslike wetlike bepalings. Enige oordrag van die visvangreg na 'n derde party vereis egter goedkeuring.

6.2 Kernoorwegings vir toekenning en bestuur

Hierdie Algemene Beleid asook die Visserij-spesifieke beleidsdokumente, word gebaseer op vyf kernbeginsels wat die toekenning en bestuur van kommersiële visvangregte lei. Hierdie vyf beginsels komplimenteer en gee uitvoering aan die doelwitte gelys in artikel 2 van die WMLH. Hulle is:

- (a) **Transformasie:** Transformasie en die noodsaaklikheid om gelykheid binne alle sektore van die visvangbedryf te bewerkstellig.
- (b) **Biologiese oorwegings:** Die impak op die teikenspesies moet in aanmerking geneem word. Dit word hoofsaaklik gedoen deur 'n Totale Toelaatbare Vangs (TTV) of 'n Totale Ontplooide Vangspoging (TOV) of albei vas te stel.
- (c) **Ekologiese oorwegings:** Die impak op die mariene ekosisteem waarbinne die teikenspesies voorkom moet in aanmerking geneem word.
- (d) **Nywerheids- en sosio-ekonomiese en kommersiële oorwegings:** Sover dit prakties moontlik en relevant is, word die sosio-ekonomiese uitwerking van toekennings op regtehouers, werkers en verbruikers in ag geneem, veral daardie individue en gemeenskappe wat van die bron afhanklik is. Nywerheids en kommersiële oorwegings sluit in die aard en die waarde van investerings in vaste bates, bemaking en prosesserings- en visvangkapasiteit.
- (e) **Prestasie of Potensiaal om te presteer:** Waar moontlik en relevant, word finansiële en visvangprestasie, waardetoevoeging, ondernemingsontwikkeling en werkskepping, asook nakoming van die WMLH, die regulasies permitvoorwaardes, en ander regsvereistes in ag geneem.

6.3 Die toekenningsproses

(a) Openbare deelname aan beleidsformulering

Die Minister van Omgewingsake en Toerisme het 6 Izimbizos in kugemeenskappe gehou gedurende die tweede helfte van 2004. Hierdie vergaderings was die informele begin van 'n proses om die publiek te raadpleeg oor die toekenning van langtermyn visvangregte.

Die formele proses van openbare konsultasie het bestaan uit 'n kennisgewing-en-kommentaar proses met betrekking tot beide die Algemene beleid asook die Vissery-spesifieke beleidstukke. 'n Volle verslag aangaande die publieke deelname proses sal beskikbaar gestel word by www.mcm-deat.gov.za. Kortliks, aan die begin van Maart 2005, het die Departement 'n konsepweergawe van hierdie Algemene beleid asook 'n konsep Vissery-spesifieke beleid vir elke sektor gepubliseer. Geïntereseerde en belanghebbende partye was uitgenooi om kommentaar te lewer op die beleidstukke. Belanghebbendes in die onderskeie visserye kom egter van uiteenlopende agtergronde en dit was dus onvanpas om hulle almal op dieselfde wyse te betrek. Buiten die algemene kennisgewing-en-kommentaar prosedure, en ten einde partye in die tradisionele visserye te help om kommentaar te lewer, is 'n reeks openbare vergaderings gehou waar die voorgestelde beleide bespreek is, vrae beantwoord is en sienswyses van die gehoor genotuleer is. Geaffekteerde en belanghebbende partye sal ook die geleentheid gegee word om oor voorgestelde aansoekvorms kommentaar te lewer.

(b) Toekenningsproses per Groep bepaal

Vir die doeleindes van die langtermyn regtetoekenningsproses, word die 19 visvangsektore in vier groepe saamgroepeer vir die beoordeling van aansoeke vir visvangregte. Die doel van die saamgroepering van die visserye is administratief, prosedureel en, tot 'n mindere mate, substantief. Verskillende kriteria en gewigte mag egter aangewend word in sektore wat binne dieselfde groep val. Die Groepe is:

Groep A

- ☐ Diepsee stokvistreil
- ☐ Aanlandige Stokvis kustrail
- ☐ Maasbankers
- ☐ Klein Pelagiese
- ☐ Patagoniese Tandvis
- ☐ Suidkus-kreef
- ☐ KwaZulu-Natal steurgarnaal treil
- ☐ Suidkuskreef;
- ☐ KwaZulu-Natal Prawn Trawl.

Groep C

- ☐ Stokvis handlyn
- ☐ Weskus-kreef (kuslyn)

Groep B

- ☐ Stokvis langlyn
- ☐ Weskus-kreef (aflandig)
- ☐ Inkvis
- ☐ Seewier
- ☐ Tuna Paal
- ☐ Bodem- haaie

Groep D

- ☐ Netvis (Treknet, Kiefnet en Strandseënnet)
- ☐ KwaZulu-Natal Strandseënnet
- ☐ Oesters en
- ☐ Witmossels

(c) Kommunikasie

Die Minister, beamptes van die Departement en die gedelegeerde owerheid sal nie met individuele aansoekers kommunikeer oor hulle aansoeke gedurende die aansoekperiode, anders as op die wyse beskryf in hierdie Algemene Beleid nie. Aansoekers of hulle verteenwoordigers mag ook nie met die Minister, die gedelegeerde owerheid of beamptes van die Departement kommunikeer nie, behalwe op die wyse uiteengesit in hierdie Algemene Beleid nie. Daar mag geensins staatgemaak word op enige inligting wat gegee is of verkry is op enige ander wyse nie. Pogings om die besluit van die gedelegeerde owerheid of die appélowerheid rakende die toekenning van 'n reg of kwantum of poging te beïnvloed sal 'n onafhanklike basis wees vir die afwysing van 'n aansoek of 'n appél.

Groepe A en B

Tensy anders bepaal in hierdie Algemene beleid, mag kommunikasie tussen die Minister, die gedelegeerde owerheid en die Departement aan die een kant, en aansoekers aan die ander, slegs plaasvind deur middel van 3 meganismes in die **Groepe A en B** sektore:

- Elektroniese Media: Beleidsdokumente en ander materiaal sal gepubliseer word op die webruimte, www.mcm-deat.gov.za. Elektroniese-pos verspreidingslyste sal geskep word ten einde direk met aansoekers te kommunikeer. Gedurende die aansoekperiode sal navrae en vrae ter opheldering deur middel van e-pos beantwoord word. Daar sal geen kommunikasie op 'n private individuele basis plaasvind nie. Alle navrae en vrae wat ontvang is, en die reaksie daarop, sal saamgestel word en dan gelyktydig aan alle geregistreerde aansoekers gestuur word. Die inligting sal ook op die webruimte beskikbaar wees.
- Staatskoerant: Alle beleide, uitnodigings om aansoek te doen en algemene kennisgewings sal in die staatskoerant gepubliseer word.
- Erkende Bedryfsliggame en Belangegroep: Beleide en ander materiaal sal sirkuleer word deur erkende bedryfsliggame en belangegroep.

Groepe C en D

Tensy anders bepaal in hierdie Algemene beleid, mag kommunikasie tussen die Minister, die gedelegeerde owerheid en die Departement aan die een kant, en aansoekers aan die ander, slegs plaasvind deur middel van 6 meganismes in die **Groepe C en D** sektore:

- Elektroniese media: Beleide en ander materiaal sal publiseer word op die webruimte, www.mcm-deat.gov.za.
- Staatskoerant: Alle beleide, uitnodigings om aansoek te doen en algemene kennisgewings sal in die staatskoerant publiseer word.
- Erkende Bedryfsliggame en Belangegroep: Beleide en ander materiaal sal sirkuleer word deur erkende bedryfsliggame en belangegroep.
- Inbelsentrum: Die Departement het 'n inbelsentrum geskep met beamptes om navrae te beantwoord oor die regtetoekennings.
- Klientedienssentrum: Die Departement het 'n klientedienssentrum in Kaapstad gevestig.
- Departementele beamptes sal bystand verleen aan aansoekers by die verspreidings- en indieningspunte en sal vergaderings hou by verskeie geadverteerde lokale langs die kus, waar die aansoekproses verduidelik sal word.

(d) Taal

In **Groep A** sal die beleide en verduidelikende notas beskikbaar wees in Engels en Afrikaans.

In **Groepe B, C en D** sal die beleide en verduidelikende notas beskikbaar wees in Engels, Afrikaans, isiXhosa en isiZulu.

In geval van konflik, sal die Engelse teks van 'n beleid of verduidelikende nota voorrang geniet.

(e) Uitnodiging om vir regte aansoek te doen

Uitnodigings om vir kommersiële regte aansoek te doen sal in die Staatskoerant gepubliseer word. Die Departement sal ook verseker dat kennisgewings geplaas word op die Departement se webruimte en in streekskoerante.

Uitnodigings geplaas in die Staatskoerant sal uit die volgende dele bestaan:

- 'n Kort uitnodiging om vir die betrokke visvangreg aansoek te doen binne 'n spesifieke tydperk.
- Die Visserij-spesifieke beleid.
- 'n Voorbeeld van die toepaslike aansoekvorm, met 'n stel instruksies, verduidelikende notas, en die notas tot die bylaes van dokumente wat ingedien moet word.

Die uitnodiging sal nie hierdie Algemene beleid ook insluit nie. Aansoekers sal egter met 'n afskrif van hierdie beleid voorsien word op versoek. Uitnodigings sal op 'n groepsbasis versprei word.

(f) Aansoekvorms

Elke vissery sal 'n aparte aansoekvorm hê wat ontwerp is om die inligting in te win wat relevant geag word ten einde aansoeke vir die betrokke visvangreg effektief te beoordeel. Aansoekvorms sal ontwerp word met inagneming van die betrokke vissery-groep en die vissery.

Voorgestelde aansoekvorms sal publiseer word vir kommentaar op die webruimte www.mcm-deat.gov.za, as deel van die publieke deelname proses.

(g) Verspreiding van aansoekvorms en betaling van aansoekfooie

Groep A

In **Groep A** sal daar van aansoekers verwag word om die Departement se webruimte te besoek en 'n kort stel biografiese inligting, soos naam, maatskappy registrasienommer, kontakbesonderhede en so meer in te dien. By voltooiing hiervan sal die aansoeker ingelig word oor hoe om die aansoekfooie te betaal.

Daar sal van aansoekers verwag word om aansoekfooie te betaal voordat 'n aansoekvorm uitgereik sal word. Aansoekfooie moet direk in die aangewese bankrekening van Regte Verifikasie Eenheid rekening betaal word. By ontvangs van die bewys van betaling sal die aansoeker toegelaat word om 'n aansoekvorm in kompakskyf ("CD") formaat by die hoofkantoor van die Regte Verifikasie Eenheid af te haal tesame met die nodige sagteware om die vorm te benut.

Groep B

Harde-kopie aansoekvorms sal versprei word by 'n voorgeskrewe lokaal in Kaapstad. Daar sal van aansoekers vereis word om die voorgeskrewe fooi in die aangewese bankrekening van die Regte Verifikasie Eenheid te deponeer en om bewys van betaling ('n oorspronklike depositostrokie of bevestiging van elektroniese betaling) by die verspreidingslokaal te lewer voor die aansoekvorm afgehaal word. Daar sal van aansoekers verwag word om 'n kort stel biografiese inligting, soos naam, maatskappy registrasienommer, kontakbesonderhede en so meer, by die verspreidingspunt te verskaf. Na afhandeling hiervan en teen bewys

van die deponering van die aansoekfooi, sal 'n genommerde harde-kopie aansoekvorm aan aansoekers voorsien word.

Groepe C en D

In **Groepe C en D** sal aansoekvorms by verskeie geadverteerde rstrekslokale langs die kus versprei word. Daar sal van aansoekers vereis word om die voorgeskrewe aansoekfooi in die aangewese bankrekening van die Regte Verifikasie Eenheid se rekening te deponeer en om bewys van betaling ('n oorspronklike depositostrokie of bevestiging van elektroniese betaling) by die verspreidingslokaal te lewer voor die aansoekvorm afgehaal word. Daar sal van aansoekers verwag word om 'n kort stel biografiese inligting, soos naam, identiteitsnommer, beslote korporasienommer (indien van toepassing), kontakbesonderhede en so meer, by die verspreidingspunt te verskaf. Na afhandeling hiervan en teen bewys van die deponering van die aansoekfooi, sal 'n harde-kopie aansoekvorm aan aansoekers voorsien word.

(h) Aansoekfooie

Die Minister, in oorleg met die Minister van Finansies, is verantwoordelik vir die vasstelling van die aansoekfooie. Die beleid rakende die aansoekfooie sal vasgestel word na 'n afsonderlike publieke deelname proses.

(i) Verifikasie deur Ouditeurs

Daar sal van aansoekers in **Groep A** vereis word om van die dienste van onafhanklike ouditeurs te gebruik ten einde die inligting vervat in sekere dele van hulle aansoekvorms te verifieer. Die relevante professionele liggaam sal prosedures vir die verifikasieproses vasstel. Hierdie is nie van toepassing op **Groepe B, C en D** nie.

(j) Ontvangs van aansoekvorms

In **Groep A** sal daar van aansoekers vereis word om die voltooië CD, gedrukte weergawes, bylaes en kopieë by 'n aangewese lokaal en gedurende 'n voorgeskrewe periode, per hand in Kaapstad in te dien.

In **Groep B** sal daar van aansoekers vereis word om die voltooië aansoekvorms, bylaes en kopieë by 'n aangewese lokaal en gedurende 'n voorgeskrewe periode, per hand in Kaapstad in te dien.

In **Groep C** sal daar van aansoekers vereis word om die voltooide aansoekvorms, bylaes en kopieë by 'n vooraf geadverteerde regionale ontvangspunte langs die kuslyn gedurende 'n voorgeskrewe periode, in te dien.

In **Groep D** sal daar van aansoekers vereis word om die voltooide aansoekvorms, bylaes en kopieë by 'n vooraf geadverteerde regionale ontvangspunte langs die kuslyn gedurende 'n voorgeskrewe periode, in te dien. Die ontvangspunte sal dieselfde wees as die verspreidingspunte en verspreiding en ontvangs sal by dieselfde lokaal en gedurende dieselfde periode plaasvind.

(k) Afskrifte

Groep A

Daar sal van aansoekers in **Groep A** verwag word om hul aansoekvorm elektronies in te vul en dit te stoor op die CD's wat verskaf word vir hierdie doel. Daar sal van aansoekers vereis word om 'n harde-kopie weergawe van die voltooide aansoekvorm uit te druk. Die gedrukte weergawe moet onderteken word en die deklarasie moet bevestig word voor 'n kommisaris van ede. Hierdie weergawe moet dan fotokopieer word. In totaal, sal daar van aansoekers verwag word om per hand, by die voorgeskrewe lokaal en tydspanne, in te dien:

- Een afskrif van die elektroniese weergawe van die aansoekvorm, gestoor op die CD verskaf vir hierdie doel;
- 'n Uitgedrukte weergawe van die elektroniese weergawe, behoorlik onderteken en bevestig voor 'n kommisaris van ede, met die nodige skedules in die vorm van bylaes; en
- 'n Afskrif van die getekende en bevestigde weergawe van die aansoek, met bylaes.

Groepe B, C en D

Daar sal van die aansoeker of sy gemagtigde verteenwoordiger vereis word om, na voltooiing van die aansoekvorm die deklarasie te onderteken en te bevestig voor 'n kommisaris van ede. Die aansoekvorm en bylaes moet gekopieer word en beide die oorspronklike asook die afskrif moet ingedien word.

(l) Ontwerp van kriteria en lading

Inligting wat aansoekers indien sal op 'n databasis ingevoer word. Die beleidsdokumente, die databasis en die inligting wat by wyse van bylaes ingedien is, sal gebruik word vir die ontwikkeling van gedetailleerde kriteria en

gewigte vir elke sektor vir doeleindes van die evaluering van die aansoeke en daarna die toekenning van kwantum of poging.

(m) Inligting wat oorweeg sal word

Die volgende benadering sal deur die gedelegeerde owerheid en die appèlowerheid gevolg word oor inligting wat in aanmerking geneem word by evaluering van aansoeke:

(i) Gedeeltes van die aansoekvorm nie voltooi

Tensy anders bepaal, indien 'n gedeelte van die aansoekvorm nie voltooi is nie, sal veronderstel word dat daardie gedeelte van die vorm nie op die aansoeker van toepassing is nie. Indien die afdeling positiewe punte vir die antwoord het, sal geen punte toegeken word nie.

'n Spesifieke teken (die "waarskuwingsteken") sal gebruik word om aan te dui waar, indien onvoltooid gelaat, 'n antwoord negatief vir die aansoeker aanvaar sal word. Byvoorbeeld, indien oopgelaat, sal daar aanvaar word dat die aansoeker "ja" antwoord op 'n vraag soos: "Is u ooit skuldig bevind aan 'n oortreding van die WLMH?" Die waarskuwingsteken kan ook gebruik word om aan te dui dat indien die antwoord op 'n positief-gestelde of 'n oop vraag onvoltooid gelaat word, veronderstel sal word dat die aansoeker die vraag negatief beantwoord het. Byvoorbeeld, indien onvoltooid gelaat, word veronderstel dat die aansoeker "nee" antwoord het op 'n vraag soos "Was u deel van die bemanning van 'n vaartuig wat in 'n beperkte of 'n vol kommersiële visvangbedryf gewerk het?"

(ii) Laat inligting

Inligting wat na die sluitingsdag ingedien word sal nie in aanmerking geneem word nie, tensy aangevra deur die Regte Verifikasie Eenheid, die gedelegeerde owerheid of die Minister of as deel van die regtetoekenningsproses of die appel proses. Die benadering tot die indiening van addisionele inligting op appél word hieronder beskryf.

(iii) Inligting van eksterne bronne

Nadelige inligting oor 'n aansoek wat van eksterne bronne ontvang word, sal nie deur die Minister of gedelegeerde owerheid oorweeg word voordat die aansoeker die geleentheid gegee is om verhoë oor die inligting te maak nie.

(iv) Gebruik van departementele databasis

Die Minister of gedelegeerde owerheid mag inligting op die Departement se databasisse gebruik gedurende die proses van langtermyn regtetoekenning, maar sal dit doen slegs tot die mate waarin aansoekers die geleentheid gegee is om vertoë te maak oor die korrektheid van die inligting

(v) Indiening van vals inligting of dokumente en nie-openbaarmaking

Daar sal van aansoekers of gemagtigde verteenwoordigers verwag word om in die teenwoordigheid van 'n kommissaris van ede te verklaar, onder meer, dat hulle nie vals inligting of vals dokumente ingedien het nie en dat hulle nie versuim het om wesentlike inligting te verskaf nie. Die indiening van vals inligting of vals dokumente of die nie-openbaarmaking van wesentlike inligting sal 'n onafhanklike rede wees om 'n aansoek te weier.

Daar sal veronderstel word dat 'n aansoeker vals inligting verstrek het, indien daar 'n wesentlike verskil is tussen die inligting wat die aansoeker verstrek en die inligting op die databasis van die Departement en waar albei weergawes nie korrek kan wees nie. Verder sal veronderstel word dat 'n aansoeker vals inligting verstrek het wanneer daar 'n wesentlike verskil is tussen die inligting wat die aansoeker in die oorspronklike aansoek verstrek en die inligting wat die aansoeker verskaf op appèl en waar albei weergawes nie korrek kan wees nie.

Verder behels die maak van 'n valse stelling in 'n verklaring bevestig voor 'n Kommissaris van Ede, wetend dat die stelling vals is, 'n kriminele oortreding.

(vi) Afskrifte van dokumente

Daar sal nie van aansoekers vereis word om enige afskrif te laat sertifiseer as 'n ware afskrif van die oorspronklike nie, maar daar sal aanvaar word dat enige afskrif 'n presiese weergawe van die oorspronklike is.

(m) Aanvra van verdere inligting, ondersoek en oorlegpleging

Die Minister of gedelegeerde owerheid mag aansoekers nooit om mondelinge voorleggings te doen of om verdere geskrewe inligting te verskaf indien daar onsekerheid bestaan oor 'n wesentlike aspek in 'n aansienlike aantal aansoeke. Wanneer mondelinge onderhoude gehou word, sal regsverteenwoordigers toegelaat word om die Minister of gedelegeerde owerheid toe te spreek.

Die Minister of die gedelegeerde owerheid mag die Regte Verifikasie-eenheid versoek om enige aangeleentheid te ondersoek insluitend die korrektheid van enige inligting wat verskaf is. Daar sal van aansoekers verwag word om met die ondersoekbeamptes saam te werk deur betyds antwoorde op skriftelike versoeke vir inligting or verduidelikings in te dien, deur vergaderings met ondersoekbeamptes by te woon en deur vrae op bevredigende wyse by sulke vergaderings te beantwoord, en waar nodig, deur aan ondersoekbeamptes toegang tot persele, vaartuie en dokumente, te verleen. Die versuim om saam te werk sal 'n aparte grond daarstel om 'n aansoek te weier.

(o) Ondersteuning vir gedelegeerde owerhede

Die gedelegeerde owerheid verantwoordelik vir die besluite oor die aansoeke in 'n sektor mag bygestaan word deur 'n "Advieskomitee", asook deur professionele projekbestuurders, konsultante en regspraktisyns. Die rol van die Advieskomitees sal vasgestel word deur die gedelegeerde owerheid. Die Advieskomitee mag gevra word om bystand te verleen by die beoordeling van aansoeke, onder die toesig van, en in ooreenstemming met die kriteria en gewigte vasgestel deur die gedelegeerde owerheid.

(p) Voorlopige lyste

Die gedelegeerde owerheid mag voorlopige lyste vir kommentaar oor enige aspek in enige sektor uitreik. Die gedelegeerde owerheid mag byvoorbeeld in **Groepe C en D** kommentaar aanvra oor of die voorlopige suksesvolle aansoekers afhanklik is van die bron en op die sterkte van antwoorde ontvang 'n finale besluit neem.

Die gedelegeerde owerhede vir **Groepe A en B** visserye kan voorleggings uitnoui rakende die beoordeling van die aansoeke voordat 'n finale besluit geneem word. In hierdie sektore, mag die gedelegeerde owerhede oorleg pleeg met geïnterreseerde en belanghebbende partye oor die metode vir die toekenning van kwantum of vangspoging voordat hierdie besluite geneem word.

(q) Kennisgewing van besluite en die redes

Nadat die gedelegeerde owerheid besluite geneem het rakende die toekenning van regte en kwantum of vangspoging sal die Departement die aansoeker skriftelik kennis gee van die besluit wat geneem is oor die aansoek. Verder sal die Departement die resultate elektronies deur erkende bedryfsliggame en belangegroepe publiseer.

Onsuksesvolle aansoekers

Onsuksesvolle aansoekers sal die volgende ontvang, tesame met die brief waarin hulle oor die besluit oor die aansoek meegedeel word:

- Die Algemeen Gepubliseerde Redes waarin die kriteria, die besluitnemingsproses en die metode in verband met besluite oor kwantum of vangspoging opgeteken word;
- 'n Spesifieke rede waarom die aansoek onsuksesvol was;
- 'n Appèlvorm wat aansoekers moet indien saam met die appèl;
- 'n Kennisgewing van die sluitingsdatum, besonderhede van die appélowerheid en ander formele vereistes vir die indiening van appèlle; en
- 'n Afskrif van enige finale telkaart wat gebruik is om die aansoek te evalueer.

Verder sal die volgende dokumente outomaties beskikbaar wees vir insae of te koop teen betaling van die voorgeskrewe fooi :

- Die Spreiblad van Besluite wat 'n opsomming van die beoordeling van al die aansoeke in 'n sektor bevat;
- Finale telkaarte van ander aansoekers; en
- Die besluitnemingslys van die gedelegeerde owerheid of die Minister.

Die spesifieke rede vervat in die kennisgewingsbrief aan onsuksesvolle aansoekers, saam met die Algemene Gepubliseerde Redes, die finale telkaart en inligting wat outomaties beskikbaar is, behels die redes vir die besluit om 'n aansoek te weier.

Suksesvolle aansoekers

Suksesvolle aansoekers sal die volgende ontvang saam met die brief wat hulle inlig oor die besluit oor hulle aansoek:

- Die Algemene Gepubliseerde Redes waarin die kriteria, die besluitnemingsproses en die metodologie wat betrekking het op besluite oor kwantum en vangspoging opgeteken sal word;
- 'n Appèlvorm, wat aansoekers moet indien te same met 'n appél oor kwantum of poging;

- 'n Kennisgewing oor die sluitingsdatum, die besonderhede van die appélowerheid en ander formele vereistes vir die indiening van appéle;
- 'n Afskrif van enige finale telkaart wat gebruik is om die aansoek te evalueer; en
- 'n Stel generiese permitvoorwaardes wat van toepassing is op die spesifieke vissery;

Verder, sal die volgende dokumente outomaties beskikbaar wees vir insae of te koop teen betaling van die voorgeskrewe fooi :

- Die Spreiblad van Besluite wat 'n opsomming van die beoordeling van al die aansoeke in 'n sektor bevat;
- Finale telkaarte van ander aansoekers; en
- Die besluitnemingslys van die gedelegeerde owerheid of die Minister.

Die Algemene Gepubliseerde Redes, die finale telkaart en die inligting wat outomaties beskikbaar is, behels die redes vir die besluit om 'n kommersiële visvangreg toe te staan en die toekenning van kwantum en vangspoging.

(r) Appéle

Elke aansoeker het die reg om appél aan te teken teen die besluite van die gedelegeerde owerheid. Die appél kan aangeteken word teen die besluit om nie 'n reg toe te ken nie of teen die toekenning van kwantum en vangspoging. Besonderhede oor die indiening van appéle sal in die kennisgewingbrief vervat wees.

Die appélowerheid sal die feite beoordeel soos hulle was op die sluitingsdatum vir die indiening van aansoeke en sal nie feite in aanmerking neem wat daarna ontstaan het nie. Byvoorbeeld, as 'n aansoeker 'n belegging in 'n vaartuig gemaak het na die sluitingsdatum vir die indiening van aansoeke sal hierdie feit nie in ag geneem word wanneer die appél oorweeg word nie.

Nadat 'n besluit geneem is, sal die aansoeker skriftelik in kennis gestel word van die appél owerheid se besluit.

(s) Toegang tot inligting

Die volgende rekords sal outomaties beskikbaar wees vir insae of te koop teen die voorgeskrewe fooi nadat die resultate aangekondig is:

- ☐ Enige telkaart, spreiblad of ander dokument wat deur die gedelegeerde owerheid, die Minister, of hulle assistente by die beoordeling van die aansoeke gebruik is;
- ☐ Op versoek van die aansoeker of sy gemagtigde verteenwoordiger, die aansoeker se eie aansoek of appél dokumentasie.

Versoeke vir toegang tot die volgende rekords sal hanteer word volgens die Wet op die Bevordering van Toegang tot Inligting 2 van 2000:

- ☐ Die aansoekvorm van 'n ander aansoeker;
- ☐ Die bylaes ingedien saam met die aansoek van 'n ander aansoeker;
- ☐ Appéldokumentasie ingedien deur 'n ander aansoeker.

Met betrekking tot die toegang tot hierdie rekords sal die Departement se inligtingsbeampte (die Hoofdirekteur: Bron en Kusbestuur) die prosedures en bepalings van die WBTI toepas. Ten einde te help met die administrasie van toegang tot inligting aansoeke, sal daar van aansoekers verwag word om sekere dokumente waartoe die inligtingsbeampte toegang kan weier, soos byvoorbeeld visvangplanne, bemarkingsplanne en finansiële state, in 'n aparte lêer in te dien.

6.4 Besluitneming

Alle besluite sal gebaseer word op toepaslike wette en gelei word deur die toepaslike beleidsdokumente. Die beleidsdokumente en die databasis wat opgestel is na die aansoeke ontvang is, sal gebruik word om meer verfynde kriteria en gewigte vir die evaluering van die aansoeke te ontwikkel. Hierdie kriteria word ontwikkel met verwysing na data ontvang na die sluitingsdatum en word gevolglik nie voor die toekenningsproses vrygestel nie.

(a) Kriteria wat gebruik word om besluite te neem oor die toekenning van regte

Die Departement verwag 'n groot aantal aansoeke vir langtermyn regte en voorsien dat, gegewe die huidige beperkings op vangste of visvangpoging in al die visserye, nie alle aansoekers regte sal ontvang nie. Party aansoekers sal afgewys word omdat hulle nie aan die minimum vereistes voldoen nie. Die res van die

aansoekers sal in 'n ranglys ingedeel word volgens 'n stel objektiewe kriteria ten einde die beste aansoekers te identifiseer in terme van die beleidsdokumente en die gelaaië kriteria. Die proses is mededingend en die doel is om die beste aansoekers te identifiseer.

Vier tipes kriteria sal gebruik word om die aansoeke te evalueer.

Aansoeke sal nagegaan word volgens 'n stel "*uitsluitingkriteria*", en daarna in 'n ranglys ingedeel word volgens 'n stel "*gelaaië balanseringskriteria*". Verder mag die gedelegeerde owerheid in sommige sektore een of meer van 'n aantal "*valbylfaktore*" in aanmerking neem ten einde 'n besluit te neem, indien daar te veel aansoekers met dieselfde punte is. 'n Proporsie van die TTV of TOV sal dan toegeken word aan elke suksesvolle aansoeker ingevolge 'n stel "*kwantumkriteria*".

(i) Uitsluitingkriteria

Drie tipes uitsluitingskriteria sal ingespan word.

Ten eerste sal 'n aansoek nagegaan word om vas te stel of dit behoorlik ingedien is. 'n Aansoek is onbehoorlik ingedien wanneer dit laat ontvang is; indien die aansoeker nie die aansoekgeld betaal het nie, of te min of laat betaal het; of indien dit ingedien is op 'n wyse teenstrydig met die instruksies, soos per faks of op 'n ander vorm as die amptelike voorgeskrewe vorm. Die gedelegeerde owerheid en Minister het geen diskresie om nie-voldoening aan die indieningsvereistes te verskoon nie.

Tweedens sal die aansoek nagegaan word om te bepaal of dit lei aan 'n wesentlike tekortkoming. 'n Aansoek lei aan 'n wesentlike tekortkoming, indien die verklaring nie deur die aansoeker onderteken is nie; of indien die aansoeker se verklaring nie deur 'n kommissaris van ede beëdig is nie; of indien meer as een aansoek van die aansoeker ontvang is vir 'n visvangreg in dieselfde sektor; of indien die aansoeker vals inligting of vals dokumente verskaf het of versuim het om wesentlike inligting te openbaar, of probeer het om die Minister of gedelegeerde owerheid gedurende die aansoekperiode te beïnvloed op 'n wyse waarvoor nie voorsiening gemaak word in hierdie Algemene beleid nie. In Groep A, word daar verwag dat onafhanklike ouditeure sekere antwoorde van die aansoeker verifieer en om 'n verslag voor te berei en te onderteken in hierdie verband. Indien die aansoeker staatmaak op inligting voorsien deur 'n houermaatskappy of ander lede van 'n groep van maatskappy of gesamentlike onderneming, word daar van die gemagtigde verteenwoordigers van hierdie entiteite verwag om 'n verklaring te teken en te laat beëdig. Die aansoek sal ook lei aan 'n wesentlike tekortkoming indien die verslag van die onafhanklike ouditeur nie voorsien word en onderteken is nie (indien van toepassing) of indien die gemagtigde verteenwoordiger van die houermaatskappy, lid van 'n groep van

maatskappy of gesamentlike ondernemingsvennoot se verklaring nie geteken en beëdig is nie. Die gedelegeerde owerheid en Minister het geen diskresie om nie-voldoening aan die vereistes oor wesentlike tekortkominge te verskoon nie.

Derdens, sal 'n aansoek nagegaan word om vas te stel of die aansoekers aan die minimum noodsaaklike vereistes voldoen om deel te neem in die sektor. Die gedelegeerde owerheid en Minister het geen diskresie om nie-nakoming van 'n noodsaaklike vereiste vir deelname aan die sektor te verskoon nie. Die noodsaaklike vereistes verskil van sektor tot sektor. Byvoorbeeld in die vorige toekenningsproses vir perlemoen-duikers, moes aansoekers aantoon, onder andere, dat die aansoeker 'n gekwalifiseerde duiker is en gesertifiseer is as Klas 1 (met oppervlakte-voorsiening), II of III Kommersiële Duiker ingevolge regulasie 14 van die regulasies uitgevaardig ingevolge die Wet op Beroepsgesondheid en Veiligheid, 1993 (AK Regulasie 10 van 11 Januarie 2002).

(ii) Balanseringskriteria: nuwe inkomelinge en bestaande regtehouers

Aansoeke wat behoorlik ingedien is, nie lei aan wesentlike tekortkominge nie en aan die noodsaaklike vereistes voldoen sal ingevolge 'n stel balanseringskriteria gemeet word ("*die balanseringskriteria*"). Die balanseringskriteria sal gelaai word vir doeleindes van die samestelling van 'n ranglys van aansoekers. Sommige van die kriteria, soos transformasie, sal oor al die sektore van toepassing wees, terwyl ander sektor-spesifiek sal wees.

Die aansoeke van medium termyn regtehouers sal nie beoordeel word in terme van dieselfde kriteria en gewigte as potensiële nuwe inkomelinge en aparte rangordes sal opgestel word. Afsnypunte sal dan apart vasgestel word vir medium termyn regtehouers en potensiële nuwe inkomelinge. Alle aansoekers met punte wat gelyk staan aan of meer is as die afsnypunt sal regte ontvang.

(iii) Valbyl faktore

Indien daar te veel aansoekers met dieselfde punte is, mag die besluitnemer valbyl kriteria in werking stel ten einde tussen die aansoekers met dieselfde punte te kies.

(b) *Kriteria vir die toekenning van kwantum of poging*

Daar word twee aparte besluite geneem. Nadat die besluit geneem is wat die suksesvolle aansoekers identifiseer sal die gedelegeerde owerheid kwantum toeken aan elke suksesvolle aansoeker volgens die benadering wat in paragraaf 7.2 hieronder beskryf word.

DEEL C: DWARSSNYDENDE BELEIDSOORWEGINGS VIR DIE TOEKENNING VAN REGTE EN KWANTUM

7. *Beleidsoorwegings*

Hierdie Algemene Beleid moet saamgelees word met die Vissery-spesifieke beleidsdokumente wat vir elke vissery aangeneem is. Laasgenoemde geniet voorkeur oor eersgenoemde, indien dit meer spesifiek is met betrekking tot 'n sekere sektor.

Die beleidsoorwegings hieronder uiteengesit, tesame met die databasis wat saamgestel word nadat aansoeke ontvang is, sal die gedelegeerde owerheid lei in die ontwikkeling van gedetailleerde uitsluitingskriteria, die balanseringskriteria vir medium termyn regtehouers en nuwe inkomelinge en die valbyl faktore. Die vissery-spesifieke beleid sal verdere leiding in hierdie verband verskaf.

Hierdie algemene beleid en die vissery-spesifieke beleide lê nie rigiede en onwrikbare reëls neer nie en dek nie elke aspek en oorweging wat in ag geneem sal word in die bepaling en toepassing van kriteria vir balansering, valbyl, kwantum en vangspoging nie. Gedelegeerde owerhede sal gemagtig word om kriteria te ontwikkel en te verfyn solank dit afgelei kan word en konsekwent is met die toepaslike wette, hierdie Algemene beleid asook die toepaslike vissery-spesifieke beleid.

Tensy die teendeel aangedui word in die aansoekvorm sal slegs inligting wat betrekking het op die aansoeker aangevra word. Met betrekking tot transformasie, werkskepping en investering en ander aspekte, mag aansoekers wat deel vorm van 'n groep maatskappye of gesamentlike ondernemings gevra word om inligting rakende die groep of gesamentlike onderneming in te dien (en nie slegs inligting oor die aansoeker nie).

7.1 Tydsduur van regte

Langtermyn visvangregte vir 'n periode van tot 15 jaar sal in al die kommersiële visserye toegeken word, behalwe in die Oester- en Witmosselvisserye, wat in 'n vroeë stadium van ontwikkeling is.

Die tydsduur van die regte sal bepaal word deur, onder andere, die vlak van transformasie in die vissery, die huidige kennis oor die biologiese status van die teikenspesies; die kapitaalintensiteit van die vissery en die behoefte om verdere belegging en ekonomiese groei aan te moedig, en die prestering van die vissery.

7.2 Vorm van die regtehouer

Artikel 18 van die WLMH bepaal dat slegs Suid-Afrikaanse persone visvangregte mag hou. Artikel 1 van die WLMH omskryf 'n Suid-Afrikaanse persoon as 'n Suid-Afrikaanse burger of maatskappy, beslote korporasie of trust. Visvangregte mag dus nie aan vennootskappe, assosiasies, gesamentlike ondernemings, gemeenskaps-assosiasies, of koöperasies toegeken word nie.

In terme van hierdie beleid, sal kommersiële visvangregte slegs aan individue (natuurlike persone) in die Groep C en Groep D visserye toegeken word, behalwe in die stokvis handlyn- en KZN Strandseënnetsektore, waar beslote korporasies ook sal kwalifiseer. Individue wat lede was van beslote korporasies, aandeelhouders in maatskappye en begunstigdes van trusts, toe daar aan hierdie entiteite mediumtermynregte toegeken is gedurende 2001 en 2002 in groep C en D visserye (behalwe stokvis handlyn en KZN Strandseënnet) sal geag word mediumtermyn regtehouers te wees vir doeleindes van die langtermyn regtetoekenningsproses. Die gedelegeerde owerheid mag ander individue as mediumtermyn regtehouers beskou indien hulle, byvoorbeeld, beheer verkry het oor 'n medium termyn reg deur 'n oordrag goedgekeur deur die verantwoordelike owerheid.

In terme van hierdie beleid, is kommersiële visvangregte in Groep A en Groep B visserye slegs aan entiteite toegeken word wat ingelyf ingevolge die Maatskappywet 61 van 1973 en die Wet op Beslote Korporasies 69 van 1973. Medium termyn regtehouers wat in die vorm van trusts of koöperasies of eenmanssake bedrywig is, moet stappe neem voor die toekenningsproses om na 'n beslote korporasie of 'n maatskappy om te skakel en die nuwe entiteit as die aansoeker nomineer. Die genomineerde beslote korporasie of maatskappy sal behandel word as 'n bestaande regtehouer, met dien verstande dat so 'n aansoeker kan aantoon dat die nuwe beslote korporasie of maatskappy die enigste opvolger van die vorige regtehouer sal wees. 'n Reg sal toegeken word aan die nuwe entiteit en nie aan die individu of die trust nie. Hierdie beleid beteken nie dat 'n trust verhoed word om aandele in 'n aansoeker of regtehouer te hou nie.

In sommige visserye, sal aansoekers aangemoedig word om na die toekenningsproses saam te smelt of om hulpbronne te deel. Verdere besonderhede sal in die Vissery-spesifieke beleidsdokumente verstrek word.

7.3 Transformasie

Die WLMH vereis van besluitnemers om die behoefte vir die herstrukturering van die visvangbedryf in ag te neem ten einde historiese wanbalanse aan te spreek en billikheid in al die takke van die visvangbedryf te bereik. Transformasie is ook 'n grondwetlike vereiste in Suid-Afrika. Die Breed-gebaseerde Swart Ekonomiese Bemagtigingswet 53 van 2003, is een van 'n aantal statutêre instrumente wat aan hierdie grondwetlike vereiste uiting gee. Hierdie wet maak voorsiening dat die Minister van Handel en Nywerheid deur kennisgewing in die Staatskoerant kodes van goeie praktyk oor swart ekonomiese bemagtiging kan uitvaardig. Konsepkodes oor sekere aspekte is gepubliseer vir kommentaar. Die kodes maak voorsiening vir 'n "gebalanseerde telkaar" om vordering en status in ondernemings te meet sowel as vir die aanname van transformasie-oktrooie vir spesifieke sektore in die ekonomie, deur hoofinsethouers in daardie sektore.

Die wet en konsepkodes is in ag geneem by die ontwikkeling van hierdie beleid en die vissery-spesifieke beleide. Vanweë die aard van die regtetoekenningsproses het die Minister van Omgewingsake en Toerisme tot op hede nog nie die aanname van oktrooie vir visvangsektore aangemoedig nie en is die gewigte en hoogtemerke gestel in die konsepkodes met betrekking tot eienaarskap en bestuur nie aangeneem nie. By die toekenning van visvangregte moet 'n besluitnemer aansoekers met mekaar, eerder as teen 'n eksterne hoogtemerk, vergelyk. Transformasie is 'n uiters belangrike oorweging in die vergelykende balanseringsproses. Die proses is mededingend en geen "hoogtemerk" kan vooraf vasgestel word nie. In 'n sektor wat nie voldoende getransformeer is nie sal aansoekers met hoër transformasie tellings as ander altyd 'n beter kans staan om 'n reg te ontvang of om 'n groter gedeelte van die beskikbare kwantum of vangspoging te ontvang. Die beleid is dat binne so 'n mededingende vergelykende proses, die aanneem van oktrooie en hoogtemerke nie altyd die gepaste wyse is om transformasie te bevorder nie.

Die beleid is om transformasie te bevorder en om te verbeter op die vlakke van transformasie wat behaal is gedurende die medium-termyn regtetoekenning. In die langtermyn regtetoekenningsproses sal slegs gehalte transformasie erken word, dit wil sê transformasie wat werklike voordele inhou vir histories benadeelde persone.

Persone is histories benadeel in die visvangbedryf ten opsigte van toegang tot regte op grond van hul ras. Dit is daarom nodig om die deelname van sulke histories benadeelde persone in alle takke van die visvangindustrie te bevorder. Dit is ook nodig om historiese wanbalanse reg te stel en om billikheid in die

visvangindustrie te bewerkstellig wat die deelname van vroue betref omdat hulle ook in die verlede gemarginaliseer is. In die toekenningsproses mag die ras en geslag van aansoekers, en in die geval van regspersone, die ras en geslag van die aansoeker se aandeelhouders of lede, bestuur, verskaffers en werkspan, dus in aanmerking geneem word. Verder mag korporatiewe maatskaplike belegging in aanmerking geneem word op die wyse hieronder beskryf.

In **Groep A**, sal daar van aansoekers verwag word om eksterne ouditeure te betrek vir die verifikasie van inligting in terme van 'n stel gestelde prosedures.

(a) Ras

Persone wat histories as "Swart", "Kleurling" en "Indiër" geklassifiseer is sal as histories benadeeld beskou word weens ras, met dien verstande dat hulle Suid-Afrikaanse burgers deur geboorte is of burgerskap verkry het voor 27 April 1994.

In **Groepe C en D** sal 'n vasgestelde aantal punte aan swart aansoekers toegeken word. Waar beslote korporasies kwalifiseer (stokvis handlyn en KZN Strandseënnet), sal aan die beslote korporasies 'n persentasie punte toegeken word met verwysing na die persentasie van die ledebelang in die beslote korporasie gehou deur swart persone. In **Groepe C en D** mag swart bestuur, diensbillikheid, regstellende aankope en korporatiewe maatskaplike belegging ook in aanmerking geneem word.

In **Groepe A en B** sal punte toegeken word vir swart eienaarskap en bestuur op wyse beskryf onmiddellike hieronder.

(i) Eienaarskap

Voordelige eienaarskap van die aansoeker deur swart persone in die vorm van nie-beperkte stemregte en ekonomiese belange geassosieer met aandele eienaarskap, sal evalueer en in ag geneem word. By die vasstelling of stemregte en ekonomiese belang "*nie-beperk*" is mag die gedelegeerde owerheid konsep Kode 100 in aanmerking neem, wat vir kommentaar gepubliseer is in terme van die Breed-gebaseerde Swart Ekonomiese Bemagtigingswet. Die gewigte in die Kode uiteengesit sal nie gebruik word nie.

Die deurvloei-beginsel, voorgestel in Kode 100, mag ook gebruik word, indien toepaslik. Byvoorbeeld waar maatskappy A 20% aandele in maatskappy B hou en 10% van maatskappy A in besit is van die aangewese rasse-groepe dra sy aandeel 2% van die besit van maatskappy B deur sodanige groep by. Waar maatskappy

A 55% van maatskappy B se aandele hou en maatskappy A is 60% in besit van die aangewese rasse-groepe, dra dit 33% by tot B se besit deur swart persone.

Addisionele punte mag toegeken aan daardie aansoekers wat geslaag het om hul werknemers te bemagtig deur aandeelname-skemas, met dien verstande dat die aansoeker kan aantoon dat die werknemers werklike voordele (soos dividende) van die skema verkry het.

In die geval van aansoekers vir medium termyn regte (hetsy suksesvol of onsuksesvol), mag punte toegeken word vir beide huidige status en vordering gemaak. Die gedelegeerde owerheid mag 'n vlak van transformasie stel vir die toekenning van die maksimum aantal punte vir swart eienaarskap. Die maksimum aantal punte vir eienaarskap deur swart persone sal aan aansoekers toegeken word wat daardie vlak bereik het.

(ii) **Bestuur**

Die senior of uitvoerende bestuur van 'n aansoeker deur swart persone sal in ag geneem word. Senior of uitvoerende bestuur beskryf gewoonlik daardie persone wat verantwoordelik is vir leiding van die strategiese bedrywighede van die maatskappy wat regstreeks aan die besturende direkteur of die direksie rapporteer. Vir doeleindes van die langtermyn regtetoekenningsproses sal die bestuur van die aansoeker op drie wyses beoordeel word. Eerstens, indien beskikbaar, sal die inligting vervat in billikheidsverslae in aanmerking geneem word. Tweedens, sal die samestelling van die direksie in ag geneem word. Derdens, sal aansoekers inligting moet indien oor die top salaris verdieners van die aansoeker.

(b) **Geslag**

Indien prakties, sal voordelige eienaarskap en bestuur deur vroue in ag geneem word in **Groepe A en B**. In **Groepe C en D**, mag geslag in ag geneem word, byvoorbeeld as 'n valbyl factor.

(c) **Diensbillikheid**

Aansoekers wat volgens die reg moet voldoen aan die Wet op Diensbillikheid 55 van 1998 sal moet bewys dat hulle daaraan voldoen. Die aantal swart persone en vroue in diens van die aansoeker kan ook 'n balanseringskriterium wees. Meer punte sal toegeken word vir swart persone en vroue wat aan die hoër kant van die aansoeker se salarisskale of in professionele of in vaardige posisies in diens staan teenoor die laer kant en in onvaardige posisies. Daar kan byvoorbeeld van aansoekers verwag word om die persentasie persone van die aangewese rasse-groepe en vroue in die top 10% van die salaristrekkers te spesifiseer,

tussen die top 10% en die top 30%, tussen die top 30% en die top 50% en onder die top 50% of om die aantal swart persone en vroue aangestel in professionele en ander vaardigheidsposisies aan te dui. Meer punte sal toegeken word waar swart persone en vroue in die top skale van verdienste eerder as in die laagste skale van verdienste in diens staan. Vanweë die rasgebaseerde struktering van die Suid-Afrikaanse werksplek, mag loonverskille in ag geneem word.

(d) Vaardigheidsontwikkeling

Daar sal van aansoekers verwag word om aan te toon dat hulle aan die Wet op Vaardigheid Ontwikkeling 97 van 1998 en Die Wet op Heffings op Vaardigheid Ontwikkeling 9 van 1999 voldoen. Indien 'n aansoeker deelneem aan leerskapprogramme of proporsioneel meer bestee op die opleiding van swart persone, mag hierdie faktor in ag geneem word.

(e) Regstellende Aankope

Regstellende aankope (aankope van swart maatskappye) mag as 'n faktor oorweeg word.

(f) Korporatiewe sosiale belegging

Die persentasie van netto wins wat op korporatiewe sosiale belegging spandeer is gedurende die vorige regte periode mag in ag geneem word. Belasting aftrekbare donasies sal geag word korporatiewe sosiale belegging te wees maar ander donasies mag ook in ag geneem word.

7.4 Multi-sektorale betrokkenheid

Oor die algemeen is dit nie 'n beleidsoogmerk om die hou van regte in meer as een vissery te verhoed of te ontmoedig nie. Dit is egter onderhewig aan twee uitsonderings.

Eerstens sal regtehouers in die **Groep A en B** visserye (insluitende hulle beherende aandeelhouers of lede en lede van hulle uitvoerende bestuurspan) nie toegelaat word om kommersiële regte in **Groep C en D** visserye te hou nie. Hierdie visserye word gereserveer vir klein- en medium-grootte ondernemings en individuele vissers wat op daardie voorraad vir hulle bestaan afhanklik is. Regtehouers in **Groep C en D** wat aandele of belange in **Groep A en B** na toekenning wil verkry mag toegelaat word om hulle **Groep C en D** regte aan ander natuurlike persone oor te dra. Die gedelegeerde owerhede vir die oordrag van regte sal sulke aansoeke vir oordragte oorweeg.

Tweedens, sal regtehouers nie toegelaat word om regte te hou in meer as een **Groep C en D** visserye nie, behalwe dat:

- Regtehouers mag enige kombinasie van die volgende regte hou: witmossel, weskuskeef (kuslyn) en netvis (Treknet, Kiefnet en Strandseënnnet);
- 'n KZN Strandseënnnetreg mag ook met 'n oesterreg gehou word.

7.5 Konsolidasie

Tussen 1994 en 2004 het die aantal regtehouers in die kommersiële visvangbedrywe dramaties toegeneem. Met die toekenning van regte was daar 'n besondere behoefte om nuwe inkomelinge toe te laat, veral persone van historiese benadeelde sektore van die gemeenskap. As 'n gevolg, is daar in verskeie sektore, getalle gewys, verteenwoordigende vlakke van historiese benadeelde regtehouers. Verteenwoordiging in terme van getalle beteken nie noodwendig breed-gebaseerde en effektiewe deelname van historiese benadeelde persone in die visindustrie nie. Die konsolidasie, eerder as die vermenigvuldiging van regtehouers, het nodig geword ten einde effektiewe deelname te bevorder.

Konsolidasie is ook nodig om die bedryf te rasionaliseer, om wetsnakoming te bevorder en om die administratiewe las en kostes vir die Departement en regtehouers te verminder. Dit beteken die vermindering van die aantal entiteite, veral dié wat dieselfde of soortgelyke aandeelhouers het en 'n uitvoerende bestuursplan en fisiese adres deel in 'n spesifieke vissery. In 'n aantal sektore sal venstertydperke oopgestel word na die toekenningsproses wanneer die Minister goedgunstig sal kyk na vorms van konsolidasie wat nie transformasie ondermyn nie. In die langtermyn regtetoekenningsproses sal medium termyn regtehouers nie toegelaat word om binne dieselfde sektor te vermenigvuldig deur onder 'n ander dekmantel vir addisionele regte aansoek te doen nie. Medium termyn regtehouers mag nie aandeel hou in potensiële nuwe aansoekers hou nie..

7.6 Nuwe inkomelinge

Die kwessie van nuwe inkomelinge is 'n vissery-spesifieke een en word in die vissery-spesifieke beleidsdokumente hanteer. 'n Onderskeid word in die vissery-spesifieke beleid getrek tussen "addisionele" inkomelinge en "nuwe" inkomelinge. Ten einde die deelname van addisionele inkomelinge toe te laat sal die aantal deelnemers in 'n sektor vermeerder moet word van die bestaande getal. Oor die algemeen is daar baie min ruimte om addisionele inkomelinge te akkomodeer, aangesien meeste van die visserye reeds ooronderskryf is. Nuwe inkomelinge kan egter geakkomodeer word deur die vervanging van onsuksesvolle regtehouers aansoekers. Dit sal gedoen word indien bestaande regtehouers versuim het om betekenisvol te transformeer of indien bestaande regtehouers versuim het om na behore te presteer of te investeer, of waar

die visvangpoging binne 'n bepaalde vissery beskou word as minder as optimaal. In sommige sektore, ten einde die regtehouers in 'n sektor te konsolideer, sal die aantal deelnemers verminder word deur nie regte toe ken aan bestaande regtehouers wat lae punte behaal, en deur hulle nie te vervang met nuwe inkomelinge nie.

Oor die algemeen sal die Departement nie regtehouers wat 'n visvangreg verkoop het of op enige wyse vervreem het, toelaat om weer tot daardie kommersiële visvangbedryf toe te tree nie. Dieselfde is van toepassing op aandeelhouers of lede van beslote korporasies wat 'n wesentlike deel van die regtehouer vervreem het.

7.7 Prestasie

Die prestasie van bestaande regtehouers mag onder die volgende hoofde evalueer word:

(a) Finansiële prestasie

Finansiële prestasie van die aansoeker mag volgens 'n stel finansiële verhoudings evalueer word wat hulle leen tot hoogtemerke wat deur geouditeerde state gerugsteun word. Die finansiële state mag ook gebruik word ten einde vas te stel wie die werklike begunstigdes van die toekenning is ("*volg-die-geld beginsel*") en om te bepaal of die regtehouer in die bedryf belê het.

(b) Betaling van heffings

Daar mag van aansoekers verwag word om bewyse te verskaf dat hulle op datum is met betaling van heffings vir vis geland gedurende die medium termyn regtetydperk. Indien heffingbetalings vir meer as 60 dae agterstallig is, mag die aansoeker geenaliseer word. Indien die aansoeker nietemin daarin slaag om 'n reg te bekom, sal die Departement nie 'n permit uitreik voor die volle uitstaande bedrag nie betaal is nie.

(c) Wetsnakoming

Aansoekers wat skuldig bevind is aan ernstige oortredings van die WLMH, die regulasies, permitvoorwaardes en ander visvangverbonde oortredings gedurende die medium-termyn regtetydperk mag uitgesluit word. Geringe oortredings insluitend die betaling van skulderkenningsboetes kan as 'n balanseringskriteria in ag geneem word.

Vaartuie op die swartlys van enige streeksvisserystuursorganisasie (SVBO) sal nie toegelaat word om visvoorraad te oes nie. Aansoekers wat vaartuie besit (ten volle of ten dele) of nomineer wat negatief gelys is sal geweier word.

Die Departement se rekords van oortredings van die WLMH sal ter insae beskikbaar gestel word voor die regtetoekenningsproses.

(d) *Visvangprestasie*

Medium termyn regtehouers se visvangprestasie mag ontleed word, om vas te stel of 'n bestaande regtehouer aansoeker 'n medium termyn toekenning doeltreffend geoes het. Aansoekers wat geen vis gevang het tydens 'n visvangseisoen, of wat vir 'n hele seisoen nie 'n permit afgehaal het nie, mag uitgesluit word. Ondervangste en oorvangste mag in sekere sektore as balanseringskriteria gebruik word.

Die Departement se rekords van vangsendemente sal ter insae beskikbaar gestel word voor die toekenning van regte, indien dit gebruik gaan word in die toekenningsproses.

7.8 *Belegging*

'n Belegging in 'n vaartuig wat genomineer is om die bron te oes en in ander vaste bates sal erken word solank daardie belegging 'n egte bedoeling aantoon om te deel aan die risiko van deelneem aan die sektor. Aandeelhouding verkry teen minimum of geen koste vir die aansoeker sal nie as 'n belegging erken word nie. Die vlak van belegging sal beoordeel word aan die hand van die kwantum gehou gedurende die mediumtermyn regtetoekenningsproses.

7.9 *Papierkwotas*

Die gedelegeerde owerheid moet poog om te voorkom dat papierkwotas die industrie toetree en om papierkwotas wat tans regte hou te verwyder. Papierkwotas ondermyn of omseil die doelwitte van die regtetoekenningsproses.

(a) *Nuwe inkomelinge*

In die langtermyn regtetoekenningsproses sal die gedelegeerde owerhede nuwe inkomeling-aansoekers wat lyk na papierkwota-risikos uitsluit. Vir hierdie doel sal die gedelegeerde owerhede 'n aansoeker as 'n "papierkwotarisiko" beskou indien dit blyk dat daardie aansoeker geen ernstige voorneme het om die risiko van

volle deelname aan die sektor te deel nie, veral wanneer die gevaar bestaan dat 'n aansoeker nie aansoek gedoen het om die bedryf toe te tree nie, maar om 'n mate van finansiële voordeel te trek sonder om direk by die hoofbedrywighede geassosieer met ontginning van enige reg wat toegeken word, betrokke te raak. Om vas te stel of 'n nuwe inkomeling aansoeker so 'n papierkwotarisiko inhou, moet die aansoeker se bates en toegang tot kapitaal en finansiële- en besigheidsbeplanning en verbintenisse oorweeg word.

Die gedelegeerde owerhede sal ook papierkwotariskos aansoekers uitsluit wat as "*fronte*" beskou word vir ander begunstigdes. *Fronte* vind plaas wanneer, ten einde 'n beleidsoogmerk te omseil, 'n aansoek deur 'n ander entiteit gemaak word. 'n Voorbeeld is wanneer 'n aansoek gemaak word deur 'n oënskynlik getransformeerde entiteit, met die bedoeling dat die hoofvoordele sal vloei na 'n ongetransformeerde entiteit of individue wat nie swart persone is nie.

(b) Medium termyn regtehouers

Die gedelegeerde owerhede sal ook medium-termyn regtehouers uitsluit wat papierkwotas is. Vir hierdie doel sal die gedelegeerde owerhede as papierkwotas beskou medium-termyn regtehouers met swak of geen prestasierekords gekombineerd met geen belegging of betrokkenheid nie.

Die gedelegeerde owerhede sal ook as "*fronte*" uitsluit en sal vir hierdie doel die "*volg-die-geld beginsel*" gebruik om te bepaal of 'n beleidsoogmerk omseil is. Byvoorbeeld, gedelegeerde owerhede sal poog om vas te stel of oënskynlik getransformeerde regtehouers inderdaad enige finansiële of ander voordeel aan swart aandeelhouders of lede toegeken het. Hierdie tipe *fronte* sal nie weer regte ontvang nie.

As algemene reël sal gedelegeerde owerhede nie toelaat dat regtehouers wat 'n visvangreg verkoop het of op enige wyse vervreem het, daardie kommersiële vissery onder 'n ander dekmantel herbetree nie.

(c) Groepe C en D

In Groep C en D sektore sal groot groepe identiese of uiters soortgelyke aansoeke, geborg deur derde partye, as papierkwota-*fronte* uitgesluit word. Oor die algemeen sal nie meer as een reg per huishouding toegeken word nie. In hierdie sektor sal daar van aansoekers vereis word om hulle verwantskap tot ander aansoekers in die sektor bekend te maak. Indien meer as een persoon per huishouding vir 'n reg aansoek doen mag al die aansoeke van daardie huishouding uitgesluit word, tensy die aansoekers duidelik en oortuigend aantoon dat hulle klein aparte kommersiële ondernemings gevestig het.

(d) **Toekomstige regtehouers**

Na die langtermyn regtetoekenningsproses sal die Departement probeer om die regte van papierkwota-regtehouers in te trek deur artikel 28 van die WLMH toe te pas. Die Departement sal, as 'n reël, visvangregte van deelnemers wat dit nie effektief benut nie, intrek.

7.10 Waardetoevoeging

Waardetoevoeging beteken daardie aktiwiteite wat kommersiele waarde tot vis toevoeg, ongeag of sulke waarde bereik word op die Suid Afrikaanse of internasionale markte. Waardetoevoeging mag beloon word omdat dit, onder andere, die skepping van werk en rykdom stimuleer.

7.11 Ondernemingsontwikkeling

Ondernemingsontwikkeling behels stappe om swart eienaarskap, bestuur en vaardighede in bestaande en nuwe ondernemings te vermeerder, insluitend beleggingprogramme en toegang tot finansiering. Hierdie stappe mag beloon word mits hulle nie op pogings neerkom om die wetgewende beskerming van werkers vervat in die arbeids-, gesondheids- en veiligheidswette te omseil nie.

7.12 Werkskepping

'n Belangrike doelwit van langtermyn regtetoekenning is om 'n ongewing te skep wat geskik is vir werkskepping, in besonder, die skepping van meer permanente werk en beter kwaliteit werk in die visvangindustrie.

Werkseleenthede geskep deur medium termyn regtehouers per ton toegeken en die vermeerdering van werk as 'n resultaat van die toekenning van mediumtermynregte, sal beloon word, ten minste in Groepe A en B. Die skepping van permanente werk word verkies bo seisoenale werk en seisoenale werk word verkies bo kontrakwerk.

7.13 Afhanklikheid en deelname aan boord

'n Belangrike doelwit by toekenning van regte in **Groep C en D** visserye is om regte toe te ken sodat individue klein kommersiële ondernemings en voltydse beroepe vir hulleself kan vestig. Finansiële afhanklikheid van die inkomste gegenereer deur visvang sal dus 'n faktor wees in meeste van die **Groep C en D** visserye. Dit sal 'n vereiste wees dat die aansoeker persoonlike betrokke is by die visvang of oes van die bron. Meer spesifiek sal "aan boord deelname" deur die regtehouer 'n vereiste wees in meeste **Groep C en D** visserye. Slegs

aansoekers wat nie in staat is om deel te neem nie as gevolg van permanente fisiese ongeskiktheid, sal van hierdie vereiste vrygestel word. Vroue-aansoekers sal nie vrygestel word om aan boord deel te neem nie.

Daar sal van bestaande regtehouers vereis word om bewys te voorsien van hul afhanklikheid deur middel van finansiële state en belastingopgawes. Daar sal van potensiële nuwe inkomelinge vereis word om bewys te voorsien van hul afhanklikheid deur hulle historiese betrokkenheid by die sektor waarvoor aansoek gedoen word of hul betrokkenheid in visvangbedryf aan te toon.

7.14 Plaaslike ekonomiese ontwikkeling en geografiese billikheidsoorwegings

Gedelegeerde owerhede mag die landing van vangste in visvanghawens buite die metropolitaanse gebiede beloon ten einde plaaslike ekonomiese ontwikkeling te bevorder, alhoewel dit nie moontlik mag wees om hierdie doelstelling in alle sektore te verwesenlik nie. Ten einde te verseker dat alle visvanggemeenskappe in die bron deel, mag die gedelegeerde owerhede die landingslokaal as 'n punttoekenning of valbyl kriterium gebruik. Bykomend daartoe, mag die departement beleidstukke en 'n stelsel van heffingtoegewings ontwikkel wat regtehouers aanmoedig om vis te land en te prosesseer in hawens wat ekonomies bedruk is.

7.15 Vaartuie en vangspoging

(a) Vaartuie

Indien van toepassing op die sektor, sal van elke aansoeker vereis word om 'n reg tot toegang tot 'n vaartuig geskik vir die ontginning van daardie spesifieke visbron of bronne aan te toon. Alle vaartuie sal by die Departement geregistreer moet wees ten einde as 'n vangsvaartuig genomineer te word.

'n Geskikte vaartuig sal in die Vissery-spesifieke beleide omskryf word, maar die minimum vereistes vir geskiktheid sal wees:

- Van 'n Suid-Afrikaanse vlag voorsien (tensy 'n uitsondering gemaak word in 'n vissery-beleid);
- Tensy vrygestel, toegerus is met 'n goedgekeurde en funksionerende vaartuigmoniteringstelsel ("VMS");
- Geregistreer deur die Suid-Afrikaanse Maritieme Veiligheidsvereniging as geskik vir visvang; en
- Nie gelys op enige SVBO negatiewe lys nie.

Die Departement sal vereis dat alle aansoekers vir kommersiële visvangregte die genomineerde vaartuie benut vir die ontginning van die bron. Vaartuig veranderings sal slegs in gepaste gevalle toegelaat word.

(b) Vangspoging

Die Minister en die Departement is verplig om ingevolge die WLMH mariene lewende bronne te bewaar en om voorsorgbenaderings by die bestuur en gebruik van hierdie hulpbronne toe te pas. 'n Sleutelement by bestuur en bewaring van mariene bronne is die beperking van ontplooide visvangpoging om die optimum gebruik van hierdie bronne te verseker.

Die Departement is oor die algemeen gekant teen enige verdere verhoging van vaartuigpoging. Oor-kapasiteit van vaartuie word beskou as een van die primêre bedreigings vir die Suid-Afrikaanse visbronne. Dit plaas ook bykomende laste op die Departement, beide ten opsigte van monitering en wetstoepassing en die bestuur van die ontginning van die bron. Onderworpe aan vissery-spesifieke beleide word gesamentlike en kruis-sektorale gebruik van vaartuie aangemoedig aangesien dit 'n meer doeltreffende en effektiewe gebruik van vaartuie dwarsdeur die seisoen tot gevolg sal hê.

Aan die ander kant word erken dat ouer vaartuie vervang moet word vir, inter alia, veiligheidsredes. Modernisering van die vloot sal onvermydelik tot gevolg hê dat vangskapasiteit verhoog word. Waar nodig, sal perke op vangspoging ingestel word om vangpoging te beperk.

7.16 Veiligheid van personeel en bemanning

Daar sal van aansoekers vereis word om aan te toon dat hulle voldoen het aan die regulerende vereistes van Die Wet op die Suid-Afrikaanse Maritieme Veiligheidsvereniging 5 van 1998 en aan die regulasies uitgevaardig ingevolge die Handelskeepvaartwet 57 van 1951.

Bykomend sal van aansoekers vereis word om aan te toon dat hulle voldoen aan die Wet op Vergoeding vir Beroepsbeserings en Siektes 130 van 1993. Aansoekers word verder herinner aan die Departement se direktnief dat maatskappye MIV/VIGS-beleidstukke moet aanneem en mag vereis dat hierdie stukke by die 2005-aansoeke geheg word.

7.17 Byvangsbestuur en verminderingsmaatreëls en storting

Die vermindering en mitigasie teen onbenutte en onder-groote byvangste is 'n belangrike oorweging. Gedelegeerde owerhede mag gevolglik maatreëls geneem en beplan om te mitigeer teen hierdie tipe byvangste in ag neem. In sommige visserye is byvangste onvermeidelik en behels 'n aanvaarbare deel van 'n vangs wat toepaslike bestuursprosedures vereis. Die Departement sal voortgaan om beleide te ontwikkel wat verbeterde beoordeling en bestuur van byvangste-spesies verseker.

Die Departement is in die proses om 'n breedvoerige bestuurplan oor byvangste te ontwikkel. By die bepaling van die toepaslikheid van byvangsmitigasie en verminderingstoestelle sal die Departement sy geskiktheid vir 'n vissery oorweeg met verwysing na die aard van die vissery self; die koste-implikasies van enige besondere toestel of mitigasie-strategie; plaaslike en buitelandse vergelykende kennis; en insette van plaaslike vissers en hulle rol by die ontwikkeling van sodanige strategieë (indien toepaslik).

Die Departement moedig maatreëls aan om insidentele byvangste van seevoëls, haaie, mariene soogdiere, jong vis en verskeie kwesbare of bedreigde mariene spesies te minimaliseer. Suid Afrika het 'n Nasionale Plan van Aksie (NPVA) ontwikkel vir die vermindering van insidentele byvangs van seevoëls en 'n konsep NPVA vir die vermindering van byvangs van sekere spesies van haaie. In hierdie verband moedig die Departement sterk aan dat verskeie visvangsektore mitigasie-toestelle gebruik soos die torilyn (mitigasie van voëlbyvangste vir langlynners) ontsappings- of uitsluitingsapparaat vir treilsektore (ontsnapping van jong vis en moontlik mariene soogdiere) asook bepaalde maasgroottes om die retensie van jong vis in treilnette te beperk. Verder veroordeel die Departement ten sterkste die praktyk van hoë-gradering en die stort van vis asook die opsetlike teikening van byvangspesies. Die Departement sal verder tyd- en ruimtelike sluiting vir visvang oorweeg, waar dit nodig geag word om broeivoorraad en broeigebied te beskerm.

7.18 Omgewingsvolhoubare praktyke

Die gedelegeerde owerhede mag visvangoperasies beloon wat begin het met, belê het in, of navorsing ondersteun het, in omgewingsvolhoubare beste praktyke.

In besonder het die Departement die volgende kwessies geïdentifiseer wat aandag vereis:

- ☐ Die instelling van energie- en brandstofverminderingsmeganismes in fabriek en vaartuie;
- ☐ Vermindering van byvangste en voëlmortaliteit;
- ☐ Vermindering van ligbesoedeling;
- ☐ Minimalisering van die negatiewe invloed van mariene besoedeling.

7.19 Aasvisserye

Die gedelegeerde owerhede sal nie kommersiële regte vir doeleindes van aas-insameling toeken nie. Die enigste uitsondering tot hierdie beleid sal in die witmosselsektor wees, wat steeds besig is om 'n kommersiële lewensvatbare mark vir menslike gebruik te ontwikkel.

DEEL D: DWARSNYDENDE BELEIDSOORWEGINGS VIR DIE TOEKENNING VAN KWANTUM OF VANGSPOGING

8. Beleidsoorwegings

Oor die algemeen word die besluit om kwantum of vangspoging toe te ken apart geneem van die besluit om suksesvolle aansoekers te identifiseer, alhoewel hierdie besluite onderling verbind is. Die oorwegings van toepassing op regtetoekenning is oor die algemeen op kwantumbesluite van toepassing. In hierdie deel van die beleid, word bykomende oorwegings van toepassing op kwantumbesluite uiteengesit. Die beleidsoorwegings vir die toekenning van vangspoging word in die vissery-spesifieke beleide behandel.

8.1 Groepe A en B

Die toekenning van kwantum in die **Groepe A en B** sektore word in die sektor spesifieke beleide behandel. In sommige sektore sal die meganisme vir die toekenning van kwantum die onderwerp vorm van verdere konsultasie, nadat die aansoek in 'n sektor beoordeel is en die suksesvolle aansoekers geïdentifiseer is. Onderworpe aan die uitkoms van hierdie konsultasies, sal die volgende beginsels toegepas word by die toekenning van kwantum.

Eerstens, kwantum sal toegeken word met verwysing na die aansoeker se 2005 toekenning. Die gedelegeerde owerheid sal 'n minimum hoeveelheid vasstel wat aan nuwe inkomelinge toegeken word, wat as 'n algemene beginsel nie minder sal wees as die laagste hoeveelheid toegeken aan 'n suksesvolle medium termyn regtehouer aansoeker nie.

Tweedens, omdat dit regeringsbeleid is om klein besigheid en breed-gebaseerde swart ekonomiese bemagtiging te ondersteun, skryf die Minister aan die gedelegeerde owerhede voor om te oorweeg om ten minste 10% van die TTV te herverdeel aan klein besighede, wat nuwe inkomelinge en medium termyn regtehouers sal insluit. By oorweging of aan klein besighede herverdeel moet word, moet die gedelegeerde owerhede ag slaan op die aard van die vissery en die vlak van transformasie. In visserye wat voldoende getransformeer is en verteenwoordigend van klein besighede is, mag herverdeling onnodig wees. In visserye wat kapitaal intensief van aard is en gevolglik nie ideaal geskik is vir klein besigheidsontwikkeling nie, moet die gedelegeerde owerhede poog om ten minste 10% van die TTV te herverdeel aan daardie regtehouers wat histories kleiner toekennings ontvang het, maar wat getransformeer het en goed presteer het.

Derdens, en bykomend tot die boonste twee beginsels, mag die gedelegeerde owerheid kwantum toeken gebaseer op kriteria bedoel om die oogmerke te bereik wat in die onderskeie sektor-spesifieke beleide

uiteengesit is, soos transformasie en prestasie. Hierdie kriteria moet ontwerp word in 'n wyse wat verseker dat alle suksesvolle aansoekers, ongeag grote, sal kan baat vind indien hulle voldoen aan die kriteria.

8.2 Groepe C en D

In **Groepe C en D** sal 'n vasgestelde hoeveelheid van die TTV of TOV aan suksesvolle aansoekers toegeken word. Hierdie hoeveelheid sal nie noodwendig dieselfde wees in elke sone of TGRV nie.

8.3 Oormaat kwantum gelaat na appèlle

Oormaat kwantum gelaat na appèlle sal proporsioneel verdeel word.

8.4 Verhoging van die TTV/TOV

Vermeerderings in die TTV of TOV sal toegeken word in terme van die toepaslike bepalings van die WLMH.

DEEL E: BESTUURSOORWEGINGS NA TOEKENNING

In hierdie deel word 'n aantal beleidsoorwegings vir die periode na die toekenning van regte in algemene terme aangespreek. Hoewel hierdie beleidsrigtings nie regstreeks gedurende die langtermyn regtetoekenningsproses toegepas sal word nie, is dit nodig om hulle in hierdie Algemene beleid in te sluit ten einde om potensiële aansoekers in te lig oor die Departement se bestuursdoelwitte nadat die regtetoekenningsproses voltooi is.

9. Medebestuur van die Kommersiële Visserye

Die Departement is geleidelike besig om veranderings in te stel in die bestuur en regulering van Suid-Afrika se kommersiële visserye, deur te beweeg na 'n stelsel van medebestuur met regtehouers, visvanggemeenskappe en ander betrokke belanghebbendes.

In terme van hierdie benadering sal die bestuur van die kommersiële visserye nie uitsluitlik by die Departement rus nie. Die verantwoordelikheid sal met regtehouers gedeel word en, waar toepaslik, met die kusgemeenskappe wat van mariene hulpbronne vir hulle bestaan afhanklik is. 'n Territoriale Gebruiksreg Vissery (TGRV) stelsel is in die perlemoenvissery ingestel en die Departement oorweeg die instelling van 'n soortgelyke benadering in sommige van die ander visserye, soos Stokvis handlyn, Weskuskreef (kuslyn), Oesters, Witmossel en Netvis.

Wat die groter kommersiële visserye betref, sal die Departement nadere werksverhoudings met erkende bedryfsliggame en belangegroepes nastreef, om belegging in vissery-navorsing, bestuur en wetsnakoming te bevorder.

Ten einde medebestuur te fasiliteer is Vissery-spesifieke **Bestuurswerksgroepe** in die meeste visvangsektore gevestig. Regtehouers word in hierdie werksgroepe verteenwoordig deur bedryfsliggame en belangegroepes. Die hoofdoel van 'n Bestuurswerksgroep is om aanbevelings te maak aangaande die bestuur van die vissery, insluitend permitvoorwaardes, geslote seisoene, beperkte gebiede, die aanneem en wysiging van sektorale bestuursplanne, wetsnakoming en vaartuigbeperkings. Wat die groter kommersiële visserye betref, beoog die Departement om sy biologiese en wetenskaplike navorsingsverpligtinge oor visbronne en die impak van visvang op ekosisteme met regtehouers te deel deur middel van die Werkgroepe of ander gepaste meganismes.

Artikel 8(1) van die WLMH bepaal dat die Minister mag, by wyse van 'n kennisgewing in die Staatskoerant, erkenning verleen aan enige bedryfsliggame of belangegroep in 'n tak van die visvangbedryf wat, in die opinie van die Minister, verteenwoordigend is van daardie spesifieke liggame of groep. 'n Konsepbeleid aangaande Erkende Bedryfsliggame (EBL) wat voorgestelde erkenningskriteria vervat sal beskikbaar gestel word vir openbare kommentaar, voordat die beleid aangeneem sal word. Waar erkende bedryfsliggame bestaan, mag die Departement kies om slegs deur die erkende bedryfsliggame te kommunikeer.

10. Heffings en kosteherwinning

Heffings is 'n vasgestelde bedrag betaalbaar deur regtehouers van kommersiële visvangregte per eenheid vis geland en is dus aan die waarde van landings gekoppel. Heffings word tans ingestel ingevolge artikel 29 van die Wet op Seevisserye 12 van 1988.

Tans word die inkomste van heffings gebruik om sommige van die kostes te herwin wat die Departement by die bestuur van die visserye aangaan (insluitend wetsnakoming- en navorsingskoste). Na die toekenningsproses sal die Departement die vatbaarheid ondersoek om 'n stelsel in te bring van vooraf betaling van heffings of betaling by wyse van maandelikse paaielemente gebaseer op die proporsie van Totale Toelaatbare Vangs toegeken (en nie geland nie). Die Departement het ook voorstelle uitgenooi vir die instelling van 'n volledige kosteherwinningstelsel vir die bestuur van kommersiële visserye.

11. Waarnemerprogram

Die Departement se huidige waarnemerprogram fokus op vaartuij en kusgebaseerde wetenskaplike monitering en verslagdoening. Die Departement is van voornemens om die rol van waarnemers uit te brei ten opsigte van wetsgehoorsaamheidsmonitering en verslagdoening en om stelselmatig waarnemersdekking uit te brei na soveel kommersiële visserye as wat prakties moontlik is. Die Departement is ook van voornemens om nuwe metodes in te bring wat wetsgehoorsaamheid sal verseker, soos aanboord kameras. Daar sal van regtehouers verwag word om die kostes te dek verbonde aan die bestuur en implementering van waarnemersprogramme.

12. Oordrag van regte

Aansoeke vir die oordrag van visvangregte word behandel ingevolge artikel 21(2) van die WLMH wat bepaal dat visvangregte oorgedra mag word indien goedgekeur deur die Minister of sy gedelegeerde.

Indien die lede van 'n beslote korporasie of aandeelhouders in 'n maatskappy sommige of al hulle belange of aandele vervreem, bly die visvangregte by dieselfde regsentiteit, en hoef goedkeuring vir die oordrag van daardie reg oor die algemeen nie verkry te word nie. Enige oordrag van aandele of ledebelange wat 'n verandering van beheer oor 'n regspersoon wat 'n visvangreg hou tot gevolg het, sal egter goedkeuring vereis. Dit is om omseiling van artikel 21(2) van die WLMH te verhoed. In die geval van 'n publiek gelyste maatskappy moet goedkeuring verleen word wanneer meer as 35% van die aandeelhouding verkoop word. Indien die regtehouer 'n individu is sal 'n aansoek om oordrag nie slegs gemaak word wanneer die bedoeling is om die reg te verkoop nie, maar ook wanneer die regtehouer sterf en die eksekuteur die reg na 'n ander persoon wil oordra.

Die huidige beleid rakende die oordrag van visvangregte word uiteengesit in Staatskennisgewing 1771 van 27 Julie 2001. Hierdie beleid sal toegepas word totdat dit vervang of gewysig word na die toekenning van langtermynregte. Die volgende faktore is in ag geneem by die oorweging van 'n aansoek om oordrag van 'n kommersiële visvangreg:

- ☐ Die dood, ontbinding, sekwestrasie of likwidasie van die regtehouer;
- ☐ Transformasie;
- ☐ Die bevordering van konsolidasie van die aantal regtehouers en vangspoging in 'n vissery.

Na die toekenning van langtermynregte, mag "vensterperiodes" vir die oordrag van regte geskep word waar, ten einde transformasie en konsolidasie te bevorder, nuwe inkomelinge toegelaat mag word en bestaande regtehouers toegelaat mag word om saam te smelt.

13. Gebruik van voertuie in die kussone

Regtehouers wat die gebruik van 'n voertuig in die kussone benodig ten einde doeltreffend te opereer moet aansoek doen vir 'n permit in terme van die toepaslike Regulasies. Regtehouers word aangeraai om die Riglyne vir die Implementering van Regulasies In Verband met die Beheer van Voertuie in die Kussone: 2004 te raadpleeg. Beide die regulasies en die riglyne is by die Departement beskikbaar (Hoofdirektoraat: Visserye Wetsnakoming) of by www.mcm-deat.gov.za. 'n Permitfooi van R500 is van toepassing en die permit sal geldig wees vir die tydsduur van die kommersiële visvangreg.

14. Beskermde Mariene Gebiede en Visserybestuursgebiede

14.1 Beskermde Mariene Gebiede

Die Departement erken beskermde mariene gebiede as 'n belangrike toevlug vir visbronne wat onder visvangdruk verkeer. Huidiglik sluit hierdie visbronne oor die 50 spesies van lynvis en perlemoen in. Beskermde mariene gebiede word ook erken as 'n belangrike werktuig om onwettige, ongeraporteerde en ongeregleerde visvang te verminder.

Die Minister het 'n aantal beskermde mariene gebiede aangewys, wat ongeveer 20% van Suid Afrika se kuslyn beskerm. Dit bly die bedoeling van die Minister en die Departement om die omvang van die mariene gebiede beskerm teen visvang te vermeerder van die huidige 1% tot die internasionale vasgestelde 20% teen 2015.

14.2 Visserybestuursgebiede

Artikel 15 van die WLMH maak voorsiening vir die verklaring van visserybestuursgebiede vir die bestuur van 'n aangewese spesie en vir die goedkeuring van 'n plan vir die bewaring, bestuur en ontwikkeling van 'n vissery. Die verklaring van visserybestuursgebiede is 'n verdere werktuig wat gebruik mag word, bykomend tot die noodmaatreëls waarvoor voorsiening gemaak word in artikel 16 en voorkeurvisvanggebiede waarvoor voorsiening gemaak word in artikel 17, om visserye beter te bestuur en gebruikerskonflik te verminder.

15. Wetsnakoming en artikel 28 kennisgewings

Die Departement het belê in monitering-, beheer- en waarnemerstoerusting ("MBW"), insluitende vaartuigmonitering- en posisioneringstelsels en het moderne patroleringsvaartuie aangeskaf. Die Departement het verder die dienste van toegewyde forensiese ouditdeskundiges en gespesialiseerde vissery-aanklaers bekom.

Die Departement sal toenemend fokus op voorkoming van oortredings en self-regulering. Dit sal gepaardgaan met streng monitering van prestasie, forensiese ouditering, samewerking met ander regulerende agentskappe soos die Suid-Afrikaanse Inkomstediens en die Suid-Afrikaanse Buro van Standaard en die toepassing van strenger sanksies, insluitende die intrekking of opskorting van regte ooreenkomstig die bepalings van artikel 28 van die WLMH. Die Departement het alreeds verskeie memorandums van begrip aangegaan met sleutel regulatoriese agentskappe, beide nasionaal en internasionaal, om inligting te deel en om die invoer en uitvoer van visprodukte te monitor.

Die Departement sal kennisgewings ingevolge artikel 28(1) uitreik en die kansellering, herroeping of opskorting van visvangregte in terme van artikel 28(4) van die wet navolg in alle omstandighede waar die Departement van mening is dat 'n oortreding van enige bepaling van die WLMH, die regulasies of permitvoorwaardes, wesentlik is. As 'n visvangreg toegeken is en die regtehouer vervolgens versuim om enige fooi of heffing opgelê ingevolge die toepaslike wetgewing te betaal, sal die Departement nie huiwer om 'n kennisgewing ingevolge artikel 28 van die WLMH uit te reik nie. Bykomend tot die intrekking van regte onder artikel 28 van die WLMH, is die Departement besig om metodes vir die vermindering van kwotas te ondersoek, in die geval van oortredings van die WLMH.

WOORDOMSKRYWING

Aansoekperiode	beteken die periode wat aanvang neem met die publikasie van die uitnodiging om aansoek te doen vir 'n kommersiële visvangreg in die sektor tot die datum waarop die appélowerheid finaal oor die appélle in die sektor beslis het.
Swart persoon	beteken Afrikane, Kleurlinge and Indiërs, met dien verstande dat die persoon 'n Suid Afrikaanse burger deur geboorte is of voor 27 April 1994 burgerskap bekom het.
Kodes van Goeie Praktyk	beteken the konsep SEB Kodes van Goeie Praktyk gepubliseer deur die Minister van Handel en Nywerheid in 2004 in terme van die die Breedgebaseerde Swart Ekonomiese Bemagtigingswet 53 van 2003.
Departement	beteken die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur.
Mediumtermyn regtehouer	beteken 'n regtehouer wat 'n mediumtermyn kommersiële visvangreg ontvang het gedurende die periode 2001/2002 – 2005 in die spesifieke sektor, of wat 'n regtehouer geword het in die sektor deur middel van 'n goedgekeurde oordrag van die visvangreg.
Minister	beteken die Minister van Omgewingsake en Toerisme.
Nuwe inkomeling	beteken 'n aansoeker wat nie 'n mediumtermyn regtehouer is in die betrokke sektor waarvoor aansoek gedoen word nie.



ISEBE LEMICIMBI YEZENDALO NOKHENKETHO

UMGAQO-NKQUBO GABALALA ONGOKWABIWA NOKULAWULWA KWAMALUNGELO ESHISHINI LOKULOBA KWEXESHA ELIDE: 2005

**LO MGAQO-NKQUBO UMELE UFUNDWE KUNYE NOMGAQO-NKQUBO OSEBENZA
NGQO KWELO CANDELO LOSHISHINO LOKULOBA (ifumaneka kwi www.mcm-deat.gov.za)**

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie document is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar

Le ncwadana ikwafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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ICANDELO A: INTSHAYELELO NEMVELAPHI

1. Intshayelelo

Lo *Mgaqo-nkqubo Jikelele ongoKwabiwa nokuLawulwa Kwamalungelo Orhwebo Lokuloba Kwexesha Elide* ukhutshwe nguMphathiswa Wemicimbi YezeNdalo Nokhenketho yaye kuya kubhekiselwa kuwo ngokuthi *"uMgaqo-nkqubo jikelele"*. Lo Mgaqo-nkqubo jikelele umele ufundwe kunye nemigaqo-nkqubo ekuya kubhekiselwa kuyo ngokuthi *"imiGaqo-nkqubo engqamene nefishari ezo zokuloba"* okanye *"imiGaqo-nkqubo engqamene namacandelo"* eye yamkelwa kwicandelo ngalinye leshishini lokuloba elisebenzayo nelisalingwayo. Kulo Mgaqo-nkqubo jikelele kuthethwa ngemibandela eliqela esebenza kuwo onke amacandelo okuloba adweliswe kwisiqu. 2. Ezi ngqwalasela zixananazileyo zalo mgaqo-nkqubo zibe nefuthe nakoko kuqulethwe yimigaqo-nkqubo engqamene neShishini elo Lokuloba, echaza iinjongo ezingqalileyo zoMphathiswa ngokubhekisele ekwabiweni kwamalungelo kwifishari nganye yokuloba. Abo basenokufaka izicelo namaqela anomdla bafanele bawufunde lo Mgaqo-nkqubo gabalala kunye nomgaqo-nkqubo ongqamene ngqo nefishari leyo Yokuloba.

2. Ukusebenza Kwawo

Lo Mgaqo-nkqubo gabalala usebenza ekwabiweni kwamalungelo kumacandelo ali-19 eshishini lokuloba: i-Hake Deep Sea Trawl, i-Hake Inshore Trawl, i-Horse Mackerel, ii-Pelagics Ezincinane, i-Patagonian Toothfish, i-West Coast Rock Lobster(Off Shore)i, i-Prawn Trawl yaKwaZulu-Natal, i-Hake Long Line, i-West Coast Rock Lobster (Near Share), i-Squid, i-Tuna Handline, i-Seaweed, i-Shark Demersal, i-Handline Hake, i-Rock Lobster kuNxweme oluseNtshona (kufuphi noNxweme), i-Oyster, i-White Mussel, ezibanjiswa ngomnatha (i-Trek- neGillnet kunye ne-Beach Seine) kunye ne-Beach Seine yakwa-Zulu Natal.

Lo Mgaqo-nkqubo awusebenzi koku –

- ❑ Ukulobela ukuziphilisa. Kuya kwamkelwa umgaqo-nkqubo owahlukileyo ojongene ngqo nokuloba kokuziphilisa, kuquka ukulobela ukuziphilisa iRock Lobster yoNxweme oluseMpuma ne-Abalone eMpuma Koloni.
- ❑ Ukuzonwabisa ngokuloba. Kuya kwamkelwa umgaqo-nkqubo owahlukileyo ojongene ngqo nokuloba kokuzonwabisa.
- ❑ Ukuloba kwamanye amazwe.
- ❑ Iindawo zokulungisa intlanzi. Kuya kwamkelwa umgaqo-nkqubo owahlukileyo ojongene ngqo neendawo zokulungisa intlanzi.
- ❑ I-Mariculture. Kuya kwamkelwa umgaqo-nkqubo ojongene ngqo nokumiselwa nokulawulwa kwe-mariculture eMzantsi Afrika.
- ❑ Imisebenzi yaselwandle engenanto yakwenza nokutya, kuquka ukubukela iminenga usesikhepheni, ukuntywila kwiindawo zookrebe, imidlalo yokuntywila ne-SCUBA diving. Kuya kwamkelaw imigaqo-nkqubo eyahlukileyo ejongene ngqo nale misebenzi yaselwandle engenanto yakwenza nokutya..

- I-Traditional Linefish. Kuya kwamkelwa umgaqo-nkqubo ujongene ngqo ne-Traditional Linefish.

Nangona lo mgaqo-nkqubo ungasebenzi kwi-Hake Handline, i-Rock Lobster yoNxweme oluseNtshona (ngaselunxwemeni), i-Netfish (i-Trek- nee-Gillnet, i-Beach Seine), i-Beach Seine yaKwaZulu-Natal, amacandelo ee-Oyster ne-White Mussel, abafaki-zicelo kuloo macandelo bacetyiswa ukuba bajolise kumgaqo-nkqubo ongqamene nelo Shishini Lokuloba ukuze babone iingqwalasela eziya kusebenza ekwabiweni kwamalungelo. Kuya kuba yimfuneko ngabafaki-zicelo kula macandelo ukuba bafunde imigaqo-nkqubo engqamene ngqo naloo mashishini okuloba ngaphambi kokufaka izicelo.

3. Injongo

Umgqo-Nkqubo Jikelele, kwakunye nemigaqo-nkqubo engqamene ngqo nefeishari, ijonge ukusebenza njengesikhokhelo kwinkqubo yokwabiwa kwamalungelo kwexesha elide. Uchaza imisebenzi engundoqo yeSebe exhasa inkqubo yokwabiwa kwamalungelo. Kwakhona uMphathiswa ukugqala kuyimfuneko ukwandlala ezinye zeenjongo zolawulo zeSebe zexesha elikufuphi elizayo, ukuze kuncedwe abafaki-zicelo. Ezi zisenokunikwa ingqwalasela liSebe ngamathuba athile ukuba kucingwa ukuba kunqweneleka njalo.

4. Yintoni enika ifuthe lo mgaqo-nkqubo?

UMgaqo-nkqubo jikelele kunye naleyo ingqamene ngqo namashishini okuloba inikwa ifuthe ziimbopheleleko ezingokomthetho uMzantsi Afrika onazo ngakwamanye amazwe, izithembiso ezingabopheleliyo kumazwe ngamazwe okanye iingingqi, nomthetho wakwabiwa kwamalungelo okuloba..

4.1 Iimbopheleleko zamazwe ngamazwe mayela nokusetyenziswa okuqhubekayo kobuncwane

Ebudeneni be-*World Summit on Sustainable Development* (i-*WSSD*), eyayiseRhawutini ngo-Septemba 2002, amazwe athembisa ukulondoloza okanye ukubuyisela kwakhona izixa zeentlanzi kumaqondo anokuvelisa eyona mveliso iphakamileyo neqhubekayo. Olu sukelo kufuneka lufikelelwe ngokungxamisekileyo kwizixa ezisele zishokoxekile, yaye ukuba kunokwenzeka, ungekadluli owe-2015. Kanjalo amazwe athembisa ukuqulunqa nokusebenzisa izicwangciso ezisebenza elizweni jikelele. Kule WSSD kwadandalaziwa imfuneko yokulondoloza imveliso nokwahluka ngokwendalo kweengingqi zolwandle nezoxweme ezibalulekileyo nezisemngciphekweni, kwimida yelizwe ngalinye napheshiya kwayo. Injongo yoku kukukhusela inkqubo yokusingqongileyo endalweni, kusetyenziswa indlela eshenxisa imikhwa yokuloba etshabalalisayo, kumiselwe iingingqi zolwandle ezikhuselekileyo, kubekwe amaxesha nemimandla evalwayo kuze kubekwe iliso kuwo ukuze kukhuseleke iindawo zokukhulisa ebudeneni bokuzala. Ngokutsho kwe-*Reykjavik Declaration* yowe-2001 kunye ne-Johannesburg Plan of Implementation ekwaphunywa nayo kwi-WSSD, uMzantsi Afrika uzibophelele ukungenisa ulawulo olunjalo lwe-Ecosystem Approach to Fisheries ("EAF") ngowe-2010.

I-Khowudi Yokuloba Okubonisa Inkathalo yowe-1995 eyamisaw yi-**Ntlangano Yokutya Nezolimo** sisixhobo sokuzithandela sokuvuma ukuba ukuloba, kuquka nemvelo yamanzi, axhasa ngokutya, imisebenzi, ulonwabo, urhwebo kunye nentlalo-ntle yezoqoqosho yabantu ehlabathini lonke yaye ke ngoko ntlalakahle yezimali yabantu kwilizwa jikelele kwaye ke ngoko kufuneka kwenziwe ngendlela ebonisa inkathalo. Le Khowudi yandlala imigaqo nemilinganiselo yamazwe ngamazwe yokuziphatha ngemikhwa ebonisa inkathalo ngenjongo yolondolozo-ndalo olusebenzayo, ukuphathwa nokuphuhlisa kobuncwane bezinto eziphila elwandle, ngentlonelo efanelekileyo ngenkqubo esingqongileyo yendalo nokwahluka-hlukana kwezinto zobomi. Le Khowudi iyavuma ukuba ukuloba kubalulekile kwisondlo, kuqoqosho, entlalweni nakwimeko-bume yendalo. Le Khowudi iye yakhokelela kwizicwangciso ezine ezibizwa ngokuba yi-International Plans of Action ("IPOAs"). Ezi IPOA yi-IPOA kuMyinge; i-IPOA yokuThintela, ukuThibaza nokuBhangisa ukuLoba okungekho mthethweni, okungaChazwayo nokungenaLawulo; i-IPOA yokuNcitiswa Kweziganeko zokuBanjiswa Ngengozi kookrebe; kunye ne-IPOA yokuNcitiswa kokubanjiswa kweeNtaka zoLwandle. Njengelizwe elililungu, uMzantsi Afrika uthembise ukusebenzisa le Khowudi, ii-IPOA ezine yaye, ukuba kuyimfuneko, uzinike ifuthe ngokuzenza ibe ziziCwangciso Zelizwe Ngokubanzi. Kwilinge lokusebenzisa i-POA yokuThintela, ukuThibaza nokuBhangisa ukuLoba okungekho mthethweni, okungaChazwayo nokungenaLawulo, kuya kuqiniswa kwinkqubo yokulandelela nokulawula iinqanawa zokuloba.

I-Convention on the Law of the Sea yeZizwe Ezimanyeneyo, yowe-1982 ("UNCLOS") yeyokuseka umyalelo osemthethweni weelwandle neelwandlekazi zehlabathi ukuze kubekho unxibelelwano kumanzi amazwe ngamazwe. Kwakhona ikhuthaza ukusetyenziswa okuseluxolweni kweelwandle neelwandlekazi zehlabathi, ukusetyenziswa ngokulinganayo nokuchubekileyo kobuncwane baselwandle, ukulondolozwa kobuncwane bezinto eziphila elwandle nokufunda, ukukhusela nokulondolozwa imeko-bume yaselwandle. **I-Fish Stocks Agreement yeZizwe Ezimanyeneyo, yowe-1995** iphelelisa i-Convention ngokungqala indlela izixa zeentlanzi ezingahlali kwindawo enye (njenge-hake) neentlanzi ezifuduka kakhulu (njenge- tuna) ezifanele zisetyenziswe zize ziphathwe ngayo.

Ngaphezu koko uMzantsi Afrika ulilungu kwiqela lee-**Regional Fishery Management Organisations ("RFMO's")** ezinembopheleleko yokulawula nokulondolozwa izixa zeentlanzi ekwabelwana ngazo, kuquka i-tuna, i-swordfish ne-Patagonian toothfish. Ezi ntlangano ziquka i-International Commission for the Conservation of Atlantic Tunas ("ICCAT"), i-Commission for the Conservation of Southern Bluefin Tunas ("CCSBT"), i-Indian Ocean Tuna Commission ("IOTC") kunye ne-Convention for the Conservation of Antarctic Marine Living Resources ("CCAMLR"), i-South East Atlantic Fisheries Organisation ("SEAFO") ne-Southwest Indian Ocean Fisheries Commission ("SWIOFC").

Njengelungu loMbutso Wamazwe E-Afrika Esemazantsi [Southern African Development Community ("SADC")], kwaye ingakumbi njengoko wayityikityayo i-**SADC Protocol on Fisheries**, uMzantsi Afrika unyanzelekile ukuba uqinisekise ukusetyenziswa okuqhubekayo kwezixa zeentlanzi ekwabelwana ngazo nabamelwane bawo be-SADC. Ezi zixa kwabelwana ngazo ziquka i-hake, ii-pelagics, ii-prawns, i-linefish kunye ne-horse.

4.2 Umthetho wokwabiwa kwamalungelo kwishishini lokuloba

Ukwenziwa kweenguqu kwishishini lokuloba yinto enyanzelisa ngumgaqo-siseko nomthetho. Isixhobo esiyintlokok sokukhuthaza iinguqu kwishishini lokuloba eMzantsi Afrika yi-Marine Living Resources Act 18 of 1998 (the "MLRA"). Enye injongo ebalulekileyo ye-MLRA kukubonelela ukusetyenziswa ngolungelelwano kobuncwane bezinto eziphilayo zolwandle, nokubonelela ngokulawuleka kobuncwane baselwandle ngendlela engenamkhethe nelinganayo ukuze kungenelwe bonke abemi boMzantsi Afrika. Ngokommiselo wecandelo 2 we-MLRA, uMphathiswa nalo naliphi ilungu loburhulumente liya kunika kuqwalasela iinjongo nemigaqo eliqela xa besebenzisa nawaphi na amagunya phantsi kwalo Mthetho. Ezi njongo zezi:

- (a) imfuneko yokusetyenziswa ngokupheleleyo nokuphuhliswa okuqhubeka ngokuvinisana nemeko-bume yobuncwane bezinto eziphila elwandle;
- (b) imfuneko yokulondoloza ubuncwane bezinto eziphila elwandle ukwenzela esi sizukulwana nesizayo;
- (c) imfuneko yokusebenzisa iindlela ezinobulumko ekulawuleni nasekuphuhliseni ubuncwane bezinto eziphila elwandle;
- (d) imfuneko yokusebenzisa ubuncwane bezinto eziphila elwandle ukuze kukhuliswe uqoqosho, ukuphuhliswa kwabasebenzi, ukunyuswa kwezakhono kumaziko emveliso yentlanzi, namasebe asebenza ngezinto eziphila kwiilwandle, ukudalwa kwengqesho nokulungelelana okuphilileyo kwimeko-bume okuhambelana neenjongo ophuhliso zikarhulumente kazwelonke;
- (e) imfuneko yokukhusela imeko-bume xa iyonke, kuquka iindidi ezingajongelwanga kusetyenziswa;
- (f) imfuneko yokulondoloza ubomi obahlukahlukeneyo baselwandle;
- (g) imfuneko yokuncisa ukungcola elwandle;
- (h) Imfuneko yoyokuqinisekisa ukuthabath' inxaxheba okubanzi nokubonisa inkathalo kangangoko kunokwenzeka kwiinkqubo zokwenza izigqibo ezibonelelweyo kulo mthetho;
- (i) nasiphina isibophelelo sikaRhulumente kazwelonke okanye iRiphabhliki ngokwaso nasiphi na isivumelwano samazwe ngamazwe okanye umthetho osebenzayo kwimithetho yamazwe ngamazwe; kunye
- (j) nemfuneko yokwakha ngokutsha ishishini lokuloba nokulungisa ukungalingani okungokwembali nokwenza kubekho ukulingana kuwo wonke amasebe eshishini lokuloba.

Ukuze kusetyenziswe ngendlela yorhwebo obu buncwane baselwandle, umntu okanye iqumrhu kufuneka lifake isicelo lize linikwe ilungelo phantsi kwe-MLRA. Icandelo 18 libonelela ngolu hlobo lulandelayo:

- (1) Akukho mntu ozibophelele kumthetho ngokuloba okanye ukuloba kokuziphilisa, oyakuthi azifake kwimari-culture okanye asebenzise indawo yokulungisa intlanzi ngaphandle kokuba ulinikiwe ilungelo lokuzifaka kulomsebenzi okanye ukusebenzisa indawo enjalo nguMphathiswa.

Ukunikezelwa kwamalungelo kube yeyona ndlela iyintloko yokuhambisela phambili iinguqu, nokwenza ukuba isebenze eminye imigaqo neenjongo ezandlalwe kwicandelo 2 le-MLRA. Ukuze asebenzise ilungelo phantsi kweCandelo 18, umntu kufuneka afumane imvume phantsi kwecandelo 13 le-MLRA, elibonelela ngokulandelayo:

(1) *Akukho mntu uya kusebenzisa naliphi na ilungelo alinikiweyo ngokommiselo wecandelo 18 okanye enze nawuphi na omnye umsebenzi ngokwalo Mthetho ngaphandle kokuba imvume ikhutshwe nguMphathiswa kumntu lowo ukuze asebenzise elo lungelo okanye enze loo msebenzi.*

Ngaphandle kwe-MLRA, imiMiselo Jikelele, njengoko ibhengeziwe kwi GN 1111 ekwi Government Gazette 19205 ka 2 Septemba 1998 (njengoko ulungisiwe) isasebenza. Le mimiselo ineenkqubo ezihlobene nezibheni ezenziwa nxamnye nezigqibo ezenziwa phantsi kwecandelo 13 nele-18 loMthetho, nemimiselo yamaxesha okungalobi neengingqi ezivaliweyo, ukusetyenziswa kwezixhobo nezithintelo zeendidi zezilwanyana. Ngapha koko le mimiselo ikwajongana nokuziswa emhlabeni, ukuthuthwa, ukothulwa, ukuqinisekisa ukufunyanwa, ukulungiswa nokuthengiswa kwentlanzi neemveliso zentlanzi, ukulawula kokuthotyelwa, ukushiya kwezinto elwandle, imimiselo yamachweba okuloba nokophulwa komthetho nezohlwayo.

I-MLRA kunye nemimiselo yayo yacaciswa kwiqela lezigqibo zenkundla ezingqamene nenkqubo yokunikezwa kwamalungelo exesha eliphakathi, ezinye zazo zenze imizekelo emihle yomthetho. Ezi zigqibo zathathelwa ingqalelo ekuzotyweni kwenkqubo yokunikezwa amalungelo exesha elide.

Umthetho iNational Environmental Management Act 107 ka 1998 ("NEMA") ibonelela ngemida yokwamkelwa kokulawulwa kwezobume bendalo nomgaqo-nkqubo. Ukusa kumkhawo wokuba isenzo selungu loburhulumente sibe nefuthe eliphawulekayo kubume bemvelo imigaqo eyandlalwe kwicandelo 2 leNEMA iyasebenza.

5. Imisebenzi yeSebe nokunikezelwa kwamagunya

5.1 Ukunikezelwa kwamagunya

I-MLRA inikezela amagunya kuMphathiswa wemiCimbi Yezendalo noKhenketho ("uMphathiswa") noMlawuli-Jikelele. Ngaphambili, uMphathiswa noMlawuli-Jikelele baye banikezela amagunya abo amaninzi kumagosa aseSebeni, kuquka amagunya aphantsi kwecandelo 13 (ukunika iimvume), icandelo 18 (ukunika amalungelo eshishini lokuloba), icandelo 28 (ukurhoxisa, ukunqumamisa nokuxhonywa kwamalungelo/iimvume zokuloba), icandelo 81 (ukunikezelwa nokurhoxiswa kwamalungelo akhethekileyo) necandelo 83 (ukuvumela ulungelo nophando lwenzululwazi).

Iseti ephelileyo yawo onke amagunya anikezelweyo iyafumaneka kwiSebe okanye inokubonwa e- www.mcm-deat.gov.za. UMphathiswa unenjongo yokuphathisa amagosa eSebe igunya lakhe lokunika amalungelo neemvume zokuloba kumacandelo ali-19 eshishini lokuloba. Lo Mgaqo-nkqubo Gabalala nemiGaqo-nkqubo Engqamene Neemveliso Zeentlanzi yamkelwe nguMphathiswa ukuze ibe sisikhokelo kwabo baphathiswe amagunya xa benikezela ngamalungelo okuloba neemvume.

5.2 Imisebenzi yesebe engundoqo exhasa ukunikezelwa kwamalungelo

(a) *Ukwenza uphando ngeentlanzi*

Lo msebenzi wenziwa uMlawuli oyiNtloko: Uphando, i-Antarctica neziQithi. Injongo eyintloko yophando lobunzulu-lwazi kukuqinisekisa ukusetyenziswa kwezitokhwe zentlanzi ngendlela yokugcina indalo, nokulondolozwa kwendalo yaselwandle, kuquka neendidi ekungajoliswanga kuzo ekusetyenzisweni njengeentini neentaka zolwandle.

I-Sebe luthobela uMqathango 15 weRio Declaration of the UN Conference on Environment and Development (Rio de Janeiro, 1992), echaza othi *"Ukuze kukhuselwe ubume bendalo, indlela yokulawula ngobulumko iyakusetyenziswa ngokubanzi yimibuso ngokwamakhono ayo. Apho kukho izoyikiso zomonakalo omkhulu ongenakubuyiselwa mva, ukungabikho kwengqiniseko yenzululwazi akuyi kusetyenziswa njengesizathu sokumisa amanyathelo okonga amaxabiso okuthintela ukonakaliswa kwemeko-bume engqongileyo."*

I-Sebe lixhasa ukusebenzisa ngobulumko zonke iimveliso zentlanzi. Ngenxa yokuba ukungaqiniseki kuchaphazela zonke amacandelo eshishini leentlanzi, kufuneka ubulumko kuwo onke amanqanaba enkqubo

Uphando lobunzululwazi lujoliswe ekuqondeni ifuthe lezixa zeentlanzi luze luphembelele iTotal Allowable Catch ("TAC") okanye iTotal Applied Effort ("TAE") ngokwecandelo 14 le-MLRA. Amaqela asebenza kule nzululwazi anembopheleleko yokuchaza uhlolisiso lwezixa olwenziwe kwizixa ezahlukahlukeneyo zeentlanzi yaye ekugqibeleni le ngcaciso inefuthe ekumiselweni kwe TAC/TAE. Uphando-nzulu lwenzululwazi lukwanefuthe ekusikweni kwemimandla yolwandle emayikhuselwe, ukusikwa kwemimandla yokulawula iintlanzi, ukumiselwa kwemimandla evaliweyo, amaxesha avaliweyo, amaxesha okuloba alelweyo, ubungakanani bodidi lwentlanzi, izithintelo zeenqanawa nezixhobo neendlela zokuloba, kubandakanya iindlela zokucutha ubambiso ngengozi. Uphando-nzulu lukwenzelwa ukuvelisa amashishini okuloba amatsha, kuhambelana no-Mgaqo-nkqubo Omtsha Olawula iintlanzi weSebe.

Amaqela asebenza ngezinto zenzululwazi okwangoku asebenza ngaphantsi kwelo nelo icandelo loshishino ngokuloba. Iqela ngalinye elisebenzayo libunjwe zizazi-nzulu kunye neengcali zangaphandle zamanye amaziko okufunda ngenzululwazi yolwandle, njengamaziko emfundo ephezulu. Uninzi lwamacandelo luphethwe ngendlela yezenzululwazi ngokwe Operational Management Procedure ("OMP"). Amanye apathwa ngendlela yeemvavanyo zonyaka ngamnye.

(b) *Ukuphathwa kwamashishini okuloba*

uLawulo oluyiNtloko: ULawulo lwaMashishini okuLoba namaNxweme lunemisebenzi emibini. Okokuqala, kukulungiselela nokulawula uphuhliso oluqhubekayo nolulinganayo kwakunye nokusetyenziswa kwezinto ezibubutyebi bendalo eziphilayo zolwandle ngokulawulwa kwamalungelo okuloba, iimvume, amalungelo akhethekileyo kunye neelayisenisi. Okwesibini, umsebenzi wayo kukunyusa iqondo eliqhubekayo lokusetyenziswa kobuncwane obukwimimandla eselunxwemeni yaseMzantsi Afrika, ngokulawula ifuthe labantu kubume bendalo (ngaphandle kokuloba ngenjongo yokurhweba), njengophuhliso lonxweme, ukulobela ukuphila, ukulobela ulonwabo, ungcoliseko

lolwandle kunye nokhenketho lwendalo yaselwandle. UMLawuli oyiNtloko uxhaswa ziingcaphephe kwezoqooqsho kushishino lokuloba, ulawulo lwamashishini okuloba, ulawulo lwe-oyile kunye nongcoliseko lolwandle kunye nolawulo lweengingqi eziselunxwemeni.

(c) Amashishini okuloba kunye nokuthobela imigaqo yonxweme

UMLawuli oyiNtloko: amaShishini okuLoba kunye nokuThobela imiGaqa yoNxweme ulawula ukwenzisa kwalo msebenzi. Ukuqinisekisa ukuthotyelwa okuhambisana nemithetho yamashishini okuloba, uMLawuli oyiNtloko, usebenzisa iqela lezixhobo zokuthobela ezijoliswe ekukhuthazeni nasekunyanzeliseni ukuba kuyathotyelwa. Ezo zixhobo ziquka:

- ☐ linqanawa zokuhlola ubume bendalo elunxwemeni nangaphandle konxweme ezikwizinga eliphezulu lala maxesha;
- ☐ linkundla zobume bendalo ezikhethekileyo;
- ☐ linkqubo zabakhi-mkhanyo;
- ☐ lingingqi zolwandle ezikhuselweyo;
- ☐ lindlela zokugadwa kweenqanawa;
- ☐ linkqubo zokufundisa uluntu;
- ☐ Ukuncedisana ngolawulo lwezitokhwe zeentlanzi;
- ☐ Ukuqashwa kwamagosa alawula ishishini leentlanzi ukuze aqinisekisa ukuba konke ukuloba kwenziwa ngendlela elawulekayo nesemthethweni nokuba yonke into ebanjisiweyo ibhaliswe ngokufanelekileyo
- ☐ Amagosa olawulo lwamashishini okuloba abekiweyo; kunye
- ☐ Nobuhlakani obusecebeni bothobelo kunye nemibutho engeyokaRhulumente, ooRhulumente bekhaya, iimbumba zolondolozo lwendalo kunye namanye amalungu achaphazelekayo kaRhulumente.

(d) Ukufikeleleka kulwazi

Amagosa abekiweyo liSebe okufumana ulwazi ngeenjongo zomthetho iPromotion of Access to Information Act, 2 ka-2000 ("PAIA") nguMLawuli oyiNtloko: uPhando, eAntarctica neziQithi, uMLawuli oyiNtloko: Ulawulo lwaMashishini okuLoba namaNxweme kunye noMLawuli oyiNtloko: ukuThobela kuMashishini okuLoba namaNxweme.

Ulwazi oluninzi mayelana nokunikezwa kwamalungelo kwixesha elidlulileyo, njengemigaqo-nkqubo, iingxelo ngezigqibo, izizathu ezishicilelweyo jikelele, kunye nezinye iingxelo ezinjengoovimba bothobelo, iiTAC nee TAE luyafumaneka kwiSebe. Ezinye iingxelo ziyafumaneka kwiifisi ezilawula ishishini leentlanzi okanye okanye kwi- website yeSebe (www.mcm-deat.gov.za). Inkcazelo ethe vetshe ngendlela yokufikelela kwezi ngxelo isenokufumaneka ngeendlela ezilandelayo:

- Qhagamshelana neSebe kwiNombolo Yokunceda Abaxumi ethi 0861 123 626;
- Ukutyelela iCustomer Services Centre eForetrust Building, 2nd Floor, Martin Hammerschlag Way, Foreshore, eKapa; okanye

- Ukutyelela iGosa laMashishini okuLoba kwii Ofisi zethu zolawulo lwamashishini okuloba ezingaselunxwemeni (ukufumana iinkcukacha malunga ne-ofisi ekufutshane nawe nceda utsalele i- Client Care Line).

Njengakwixesha elidluleyo, kwakuba nje ukuqwalaselwa kwezicelo kugqityiwe nezigqibo zavakaliswa, inkoliso yeengxelo ezigcinwe liSebe ziza kuvulwa ngokuzithandela yaye ziya kufumaneka ngokuzenzekelayo, ngokwesibonelelo secandelo 15 le-PAIA. Ngamanye amazwi akukho mfuneko yakuzalisa iifomu zokufikelela kwinkcazelo. Iingxelo zisenokuhlolwa yaye iikopi ziya kufumaneka ngesicelo selo xesha ngomrhumo ochaziweyo weendleko zokubhala. Ngokuqhelekileyo, iSebe liya kufuna ukuba iifomu zokufikelela kwinkcazelo zizaliswe nje, yaye liya kuziqwalasela kuphela ngokwezibonelelo ze-PAIA, xa kufunwa ukufikelela kwiingxelo eziqulunqwe ngabanye abantu (njengeefomu zezicelo ezizalisiweyo nezihlomelo zazo. Indlela yokusingatha umbandela wokufikelela kwinkcazelo kuthethwa ngayo ngokubanzi ngezantsi.

ICANDELO B: INDLELA ESETYENZISWAYO NENKQUBO YOKWABIWA KWAMALUNGELO

6. Ukwabiwa Kwamalungelo Okuloba

6.1 Uhlobo lwelungelo lokuloba ngokomthetho

Ngaphambi kokuba iMLRA iqale ukusebenza ngowe-1998, iSebe belinikeza "imiyinge" yokuloba ngaphantsi kwe-Sea Fisheries Act, 12 wowe-1988. Ngoku iCandelo 18 leMLRA libonellela ngokunikezelwa "kwamalungelo" okuloba. Ukuba ngokomthetho kweli "lungelo" lokuloba kuyafana "nomyinge" onikwe ngaphantsi koMthetho we-Sea Fisheries. La "malungelo" anikezelwa phantsi kwe-MLRA asingomalungelo obunini yaye afanele aqondwe njengemvume esemthethweni yokuzuba ubuncwane baselwandle okwesihlandlo esithile esiqingqiweyo sexesha. Ngenxa yoku, ukucinywa okanye ukurhoxiswa kwawo akuthethi ukwabiwa kwelungelo lobunini ngokwentsingiselo yecandelo 25 loMgaqo-siseko okanye uMthetho Wokwabiwa 63 ka-1975. oku kucacile kwicandelo 18(6) le-MLRA, elithi ilungelo lokuloba lisebenza okwethuba elimiselwe nguMphathiswa (okanye lowo amphathise igunya lakhe) ekuthi ngokuzenzekelayo emva koko libuyele kuRhululumente yaye lisenokunikezelwa kwakhona (kulowo wayelinikiwe ngaphambili okanye linikezelwe komnye) ngokwezibonelelo ezisebenzayo ze-MLRA.

Ilungelo lokuloba linikezelwa emntwini okanye iziko elithile yaye, ngokutsho kwecandelo 21 le-MLRA, elo lungelo lisenokungagqithesela komnye ngaphandle kwemvume yoMphathiswa okanye lowo amphathise igunya lakhe. Ekufeni, ekubanjweni, okanye ukubhangiswa kwalowo unelo lungelo, ilungelo liphathwa enoba ngumabi-lifa, ummeli ophathiswe ngokuthenjwa okanye umbhangisi yaye elo lungelo lisenokuqhubeka lisetyenziswa okwexesha elivumelekileyo ngezibonelelo ezisemthethweni ezisebenzayo. Noko ke, kufuneka imvume ukuba ilungelo lokuloba liza kudluliselwa komnye umntu.

6.2 Undoqo Wokwabiwa Neengqwalasela Zokulawula

Lo Mgaqo-nkqubo jikelele nemigaqo-nkqubo engqamene nemveliso yeentlanzi isekelwe kwimigaqo emihlanu engundoqo esisikhokelo ekwabiweni nasekulawuleni kwamalungelo eshishini lokuloba. Le migaqo mihlanu iphelelisa yaye inefuthe kwiinjongo ezibhalwe kwiCandelo 2 le-MLRA. Nantsi le migaqo:

- (a) **Inguqu:** Inguqu nemfuneko yokuzisa ukulingana kuwo onke amasebe eshishini lokuloba
- (b) **lingqwalasela zebhayoloji:** Ifuthe kwiindidi ekujoliswe kuzo kumelwe liqwalaselwe. Oku kwenziwa ubukhulu becala ngokusekwa kwe Total Allowable Catch ("TAC") okanye iTotal Allowable Effort ("TAE"), okanye zombini.
- (c) **Iziqwalaselo zemeko yendalo:** Ifuthe kwimeko yendalo yolwandle apho kuhlala iindidi ekujoliswe kulo kumele liqwalaselwe.
- (d) **Iziqwalaselo zorhwebo nemeko yokuhlala-noqoqosho kunye nezemali:** Ngokunakho ukwenzeka, ifuthe lokunikezwa kwezooqoqosho nemo yokuhlala kwabo bantu noluntu oluxhomekeke kudidid ekujoliswe kulo liyaqwalaselwa, kuquka abanini-malungelo, abasebenzi, abalungisi, abezentengiso nabasebenzisi. Ezi ziqwalaselo ziquka ubungakanani bokuloba, ubungakanani benkunzi yemali edingwa lishishini elo lokuloba, kunye nokubanakho kwabathathi-nxaxheba ukukhuphisana neentengiso zamanye amazwe.
- (e) **Ukusebenza okanye ukuba nakho ukusebenza komfaki-sicelo:** Ukuba nje kusengqiqweni yaye kuyasebenza, ingeniso kwizimali nasekulobeni, ukwandisa ixabiso, ukuphuhlisa ishishini nokudala imisebenzi, kwakunye nokuthobela umthetho we-MLRA, imiMiselo, imibandela yemvume, nezinye iimfuneko ezingokomthetho ziya kuqwalaselwa

6.3 Inkqubo yokunikezelwa

- (a) **Ukuthatha inxaxheba koluntu kuyilo lomgaqo-nkqubo**

Cluster A

- ☐ Hake Deep Sea Trawl
- ☐ Hake Inshore Trawl
- ☐ Horse Mackerel
- ☐ Small Pelagics
- ☐ Patagonian Toothfish
- ☐ South Coast Rock Lobster
- ☐ KwaZulu-Natal Prawn Trawl

Cluster B

- ☐ Hake Long Line
- ☐ West Coast Rock Lobster (off shore)
- ☐ Squid
- ☐ Seaweed
- ☐ Tuna Pole
- ☐ Demersal Shark

Cluster C

- ☐ Handline Hake
- ☐ West Coast Rock Lobster (near shore)

Cluster D

- ☐ Net Fish (trek- and gillnets; beach seine)
- ☐ KZN Beach Seine
- ☐ Oysters
- ☐ White Mussels

UMphathiswa weMicimbi yezeNdalo noKhenketho wabiza iimbizo ezintandathu (6) kwiindawo zokuhlala ezingaselunxwemeni ngesiqingatha sokugqibela sika-2004. Ezi ntlanganiso beziyinkqubo elula yokucebisa noluntu malunga nokunikezwa kwamalungelo okuloba exesha elide.

Inkqubo eqingqiweyo yokucebisa noluntu yayiyinkqubo yokukhupha izaziso nokuphefumla ngezimvo mayela noMgaqo-nkqubo gabalala nemigaqo-nkqubo engqamene nemveliso yeentlanzi. Ingxelo ephelileyo mayela nothabatho-nxaxheba loluntu nokwamkelwa kwemigaqo-nkqubo iya kufumaneka e-www.mcm-deat.gov.za. Ngamafuphi, ekuqaleni kukaMarch 2005, iSebe lapapasha isiyilo salo Mgaqo-nkqubo gabalala nesiyo somgaqo-nkqubo wemveliso yeentlanzi engqamene necandelo ngalinye. Amaqela anomdla nachaphazelekayo acelwa ukuba agqabaze ngale migaqo-nkqubo. Phofu ke, abantu abanebango kwiimveliso ezahlukeneyo zentlanzi bavela kwiimvelaphi ezahlukeneyo qitha yaye ngenxa yoku kwakungafanelekanga ukubabandakanya bonke ngendlela efanayo. Ngaphandle kwenkqubo eqhelekileyo yokukhupha izaziso nokuphefumla ngezimvo, nokuze kuncedwe abathabathi-nxaxheba kumacandelo emveli baphefumle, kwabakho iintlanganiso ezininzi noluntu apho le migaqo-nkqubo iqulunqwayo yayicaciswa khona, kuphendulwa imibuzo yaye kubhalwa phantsi iimbono zabaphulaphuli. Kanjalo amaqela anomdla nachaphazelekayo aya kunikwa ithuba lokugqabaza ngeefomu zezicelo.

(b) Allocation Process determined by Cluster

For purposes of the long term rights allocation process, the 19 fishing sectors are grouped together in four clusters for the assessment of applications for fishing rights. The purpose of clustering fisheries together is administrative, procedural and, to a lesser extent, substantive. However, different criteria and weighting may be applied to sectors falling within the same cluster. The clusters are:

(c) Unxibelelwano

Ebudeni bexesha lokufaka isicelo, amagosa eSebe, agunyazisweyo noMphathiswa, abayi kunxibelelana nabafaki-zicelo ngokubhekisele kwizicelo zabo, ngaphandle kwangendlela echazwe kulo Mgaqo-nkqubo Jikelele. Kanjalo, abafaki-zicelo okanye abameli babo abasayi kunxibelelana noMphathiswa, lowo ugunyaziswe nguye okanye amagosa eSebe ngokubhekisele kwizicelo zabo ngaphandle kwendlela echazwe kulo Mgaqo-nkqubo Jikelele. Nayiphi na inkcazelo enikiweyo okanye efunyenwe nangayiphi na enye indlela akuno kumiswa ngayo. Amalinge okuphembelela isigqibo salowo ugunyazisiweyo okanye igunya elisingatha izibheni ngokwabiwa okanye ngelungelo okanye izixa okanye iinzame kuya kuba sisizathu sisodwa nje sokukhatywa kwesicelo okanye isibheni.

Ii-Clusters no-B

Ngaphandle kokuba kubonelelwe ngenye indlela kulo Mgaqo-nkqubo jikelele, unxibelelwano noMphathiswa, lowo amgunyazisileyo namagosa eSebe Lonxibelelwano kwelinye icala, nabafaki-zicelo kwelinye, lunokwezeka ngeendlela ezintathu kuphela kwi- **Cluster A no-B**:

- ❑ Unxibelelwano ngekhompyutha: Imigaqo-nkqubo neminye imibandela iya kupapashwa kwi-website, www.mcm-deat.gov.za. Kuya kwenziwa uludwe lokuthumela imiyalezo ngekhompyutha ukuze kunxityelelwano ngqo nabafaki-zicelo. Ebudeni bexesha lezicelo, imibuzo nokucela ingcaciso kuya kuphendulwa nge-e-mail. Akuyi kunxityelelwana nabantu emacaleni. Yonke imibuzo nezicelo ezifunyenweyo, neempendulo ezothi zilandele, iya kuhlenganiswa ize ke isasazwe ngaxesha-nye kubo bonke abafaki-zicelo ababhalisileyo. Le nkcazelo iya kufumaneka nakwi-website.
- ❑ IGazethi kaRhulumente: Yonke imigaqo-nkqubo, izimemo zokufaka izicelo nezaziso jikelele ziya kupapashwa kwiGazethi yasebuRhulumenteni.
- ❑ Amaqumrhu ezoshishino namaqela anomdla: Imigaqo-nkqubo neminye imibandela iya kusasazwa kusetyenziswa amaqumrhu ezoshishino avunyiweyo namaqela anomdla.

Ku-Clusters C no-D

Ngaphandle kokuba kulungiselelwe ngenye indlela kulo Mgaqo-nkqubo gabalala, uMphathiswa, lowo amphathise igunya namagosa eSebe Lonxibelelwano kwelinye icala, kunye nabafaki-zicelo kwelinye, baya kunxibelelana ngezi ndlela zintandathu kumacandelo ee-**Cluster C no-D**:

- ❑ Unxibelelwano ngekhompyutha: Imigaqo-nkqubo neminye imibandela iya kupapashwa kwi- website, www.mcm-deat.gov.za.
- ❑ IGazethe yasebuRhulumenteni: Yonke imigaqo-nkqubo, izimemo zokufaka izicelo nezaziso gabalala ziya kupapashwa kwiGazethe kaRhulumente.
- ❑ Amaqumrhu ezoshishino avunyiweyo: Imigaqo-nkqubo neminye imibandela iya kusasazwa ngamaqumrhu ezoshishino avunyiweyo.

- ❑ I-Call centre: ISebe limisele iziko loqhakamshelwano ngomnxeba elinabasebenzi bokuphendula imibuzo ngokwabiwa kwamalungelo.
- ❑ IZiko Leenkonzob Zabaxumi "(Customer Service Centre)": ISebe liseke iziko leenkonzob zabaxumi eKapa.
- ❑ Amagosa eSebe aya kunikela uncedo kubafaki-zicelo kwiindawo ekukhutshwa nekwamkelwa kuzo iifomu yaye aya kuba neentlanganisob kwiindawo eziliqela ezibhengeziweyo ngaselunxwemeni nekuya kucaciswa kuzo inkqubo yokufaka isicelo.

(d) Ulwimi

Ku-**Cluster A**, imigaqo-nkqubo neengcacisob zeefomu zezicelob ziya kufumaneka ngesiNgesi nesiAfrikaans.

Ku-**Clusters B, C no-D**, imigaqo-nkqubo neengcacisob zeefomu zezicelob ziya kufumaneka ngesiNgesi, isiAfrikaans, isiXhosa nesiZulu.

In the case of conflict, the English text of a policy or explanatory note, will prevail.

(e) Izimemo zokufaka izicelob zamalungelob

Izimemo zokufaka izicelob zamalungelob okulob ziya kupapashwa kwiGazethi yasebuRhulumenteni. Kanjalo iSebe liya kuqinisekisa ukuba izazisob zifakwa kwi-website yeSebe namaphepha-ndaba eengingqi.

Izimemo ezifakwe kwiGazethi yasebuRhulumenteni ziya kuba nezi nxalenye zilandelayo:

- ❑ Isimemo esifutshane sokufaka isicelob selungelob leshishini lokulob kwixesha elixeliweyo.
- ❑ Umgaqo-nkqubo ongqamene nefishari.
- ❑ Umzekelob wefomu yesicelob esebenza kwelob candela kunye noluhlu lwemiyalelo, iingcacisob nenkcazelob yoludwe lweencwadi ekufuneka zifakwe.

Lo Mgaqo-nkqubo Jikikele a awuyi kuhamba neso simemo. Noko ke abafaki-zicelob baya kunikwa ikopi yoMgaqo-nkqubo jikelele ukuba bayicelile. Izimemo ziya kuchakwa ngokwamaluflu (ngokwee-cluster).

(f) Iifomu Zezicelob

Ifishari nganye yokulob liya nefomu eyahlukileyo yesicelob eyenzelwe ukufumana inkcazelob egqalwa iyimfuneko ukuqwalasela ngempumelelo izicelob zelob lungelob leshishini lokulob. Iifomu zezicelob ziya kwenziwa ngendlela yokuba kulungiselelwe loo cluster yokulob nefishari yokulob.

Iifomu zezicelob ezicetywayo ziya kupapashwa kwi-website www.mcm-deat.gov.za, njengenxalenye yokuba uluntu luveze iizimvo zalo.

(g) Ukukhutshwa kweefomu zezicelo nokuhlawulwa kwemirhumo

Ku-Cluster A

Ku-Cluster A, kuya kufuneka abafaki-zicelo baye kwi-website yeSebe baze babhale inkcazelo engephi yeenkcukacha zokuba bangoobani, njengegama, inombolo yokubhaliswa kwenkampani, iindlela zozhagamshelwano nezinye. Akugqiba, umfaki-sicelo uya kuchazelwa indlela yokuhlawula imirhumo yezicelo.

Kuya kufuneka abafaki-zicelo bahlawule umrhumo wesicelo ngaphambi kokukhutshwa kweefomu yesicelo. Imirhumo yesicelo imele ihlawulwe ngqo kwi-akhawunti echaziweyo yebhaki ye-Rights Verification Unit. Bakuba bufumanekile ubungqina bentlawulo, umfaki-sicelo uya kuvunyelwa ukuya kuthabatha ifomu yesicelo ekwi-compact disc ("CD") kwiofisi enkulu ye-Right Verification Unit, kunye ne-software esebenzayo yokusebenzisa ifomu.

Ku-Cluster B

Iifomu zezicelo ezingamaphepha ziya kukhutshwa kwindawo echaziweyo eKapa. Kuya kufuneka abafaki-zicelo bafake kwi-akhawunti yebhanki echaziweyo ye-Rights Verification Unit, baze babonise ubungqina bentlawulo (iphetshana lasebhankini lokufaka imali okanye isiqinisekiso sentlawulo se-elektroniki) kwindawo ekukhutshwa kuyo iifomu ngaphambi kokuthabatha ifomu. Kuya kufuneka abafaki-zicelo banikele inkcazelo engephi ngeenkcukacha zabo kubasebenzi abakwiindawo ekukhutshwa kuyo iifomu, njengegama, inombolo yokubhaliswa kwenkampani, iindlela zozhagamshelwano nezinye. Bakuba begqibile, yaye bekhuphe nobungqina nokuhlawulwa komrhumo, abafaki-zicelo baya kunikwa ikopi eliphepha yefomu yesicelo enenombolo.

Ku-Cluster C no-D

Ku-Cluster C no- D, iifomu zezicelo ziya kukhutshwa kwiindawo ezahlukahlukenye zeengingqi ezibhengeziweyo ngaselunxwemeni. Kuya kufuneka abafaki-zicelo bafake umrhumo wesicelo kwi-akhawunti yebhanki etyunjiweyo ye-Rights Verification Unit, nokuba baveze ubungqina bentlawulo (iphetshana lasebhankini lokufaka imali okanye isiqinisekiso sentlawulo se-elektroniki) kwindawo ekukhutshwa kuyo iifomu. Kuya kufuneka abafaki-zicelo banikele inkcazelo engephi ngeenkcukacha zabo kubasebenzi abakwiindawo ekukhutshwa kuyo iifomu, njengegama, inombolo yesazisi, inombolo kakopolotyeni (ukuba kuyasebenza oko), iindlela zozhagamshelwano nezinye. Bakuba begqibile, yaye bekhuphe nobungqina nokuhlawulwa komrhumo, abafaki-zicelo baya kunikwa iifomu zezicelo.

(h) Intlawulo yezicelo

UMphathiswa, ngokubonisana noMphathiswa Wezimali, unembopheleleko yokumisela imirhumo yezicelo. Umgaqo-nkqubo ngokubhekisele kwimirhumo yezicelo uya kumiselwa emva kokubonisana okwahlukileyo noluntu.

(i) Ukungqinisiswa Ngabahloli-zincwadi

Kuya kufuneka abafaki-zicelo kwishishini lokuloba kwi-**Cluster A** baqashe abahloli-zincwadi abazimeleyo ukungqinisisa inkcazelo ebhalwe kwiinxalenye ezithile zeefomu zabo zezicelo. Iqumrhu elivunyiweyo nelifanelekileyo liya kumisela iinkqubo zokungqinisisa. Oku akusebenzi ku-**Cluster B, C no-D**.

(j) Ukwamkela

Ku-**Cluster A**, kuya kufuneka abafaki-zicelo bazise ngobuqu iCD ezalisiweyo nombhalo oprintiweyo wesicelo, izihlomelo neekopi kwindawo echaziweyo nangexesha elixeliweyo eKapa.

Ku-**Cluster B**, kuya kufuneka abafaki-zicelo bazise ngobuqu iifomu zezicelo ezizalisiweyo, izihlomelo neekopi kwindawo echaziweyo nangexesha elixeliweyo eKapa.

Ku-**Cluster C**, kuya kufuneka abafaki-zicelo bazise ngobuqu iifomu zezicelo ezizalisiweyo, izihlomelo neekopi kwiindawo ezahlukahlukeneyo neziza kubhengezwa kusengaphambili kwiindawo zokwamkela iifomu ngaselunxwemeni ngexesha elixeliweyo.

Ku-**Cluster D**, kuya kufuneka abafaki-zicelo bazise ngobuqu iifomu zezicelo ezizalisiweyo, izihlomelo neekopi kwiindawo ezahlukahlukeneyo neziza kubhengezwa kusengaphambili kwiindawo zokwamkela iifomu ngaselunxwemeni ngexesha elixeliweyo. Iifomu ziya kwamkelwa kwiindawo ezifanayo nezazikhutshwe kuyo yaye ukukhutshwa nokwamkelwa kwezicelo kuya kuba kwindawo efanayo nangexesha elifanayo.

(k) Iikopi**Ku-Cluster A**

Abafaki-zicelo ku-**Cluster A** kuya kufuneka bazalise iifomu yabo yesicelo ngekhompyutha baze bayifake kwii-CD ezilungiselelwe le njongo. Kuya kufuneka abafaki-zicelo baprinte ikopi zefomu yesicelo ezalisiweyo. Le kopi iprintiweyo imele isayinwe yaye isibhengezo simele sifungelwe phambi komkomishinala wezifungo. Kumele kwenziwe enye ikopi ngokusuka kule iprintiweyo. Lilonke, abafaki-zicelo kuya kufuneka bazise kwindawo echaziweyo nangeli xesha:

- ☐ Ikopi enye yekhompyutha egcinwe kwi-CD elungiselelwe le njongo;
- ☐ Umbhalo oprintiweyo wale yekhompyutha, osayinwe nofungelwe ngokufanelekileyo, kunye nezicwangciso ezifunekayo ezihlonyelweyo; kunye
- ☐ Nombhalo okhutshelweyo wefomu esayiniweyo nefungelweyo kunye nezihlomelo.

Ii-Cluster B, C no-D

Umfaki-sicelo okanye ummeli ogunyazisiweyo womfaki-sicelo ka-**Cluster B, C no-D** kuya kufuneka, emva kokuzalisa ifomu yesicelo, asayine isibhengezo aze asingqinele phambi komkomishinala wezifungo. Le fomu yesicelo kunye nezihlomelo zayo zimele kwenziwe iikopi zayo kuze kungeniswe ifomu neekopi zayo.

(l) Ukwenziwa kwendlela yokulinganisa nokuweyisha

Inkcazelo efakwe ngabafaki-zicelo iya kubhalwa kwisisele senkcazelo (database). Imigaqo-nkqubo, isisele senkcazelo nenkcazelo engeniswe ngezihlomelo, iya kuthi ke isetyenziswe ukuqulunqa iinkqubo zokulinganisa nokuweyisha kwicandelo ngalinye ngenjongo yokuqwalasela izicelo nokwabiwa kwezixa okanye iinzame kamva.

(m) Inkcazelo emayiqwalaselwe

Lowo uphathiswe igunya okanye igosa lezibheni liya kusebenzisa indlela echazwe ngezantsi ngokubhekisele kwinkcazelo emayiqwalaselwe ekuqwalaseleni izicelo.

(i) Indawo ezingabhalwanga kwifomu yesicelo

Ngaphandle kokuba kuboniswe ngenye indlela, ukuba kukho indawo engabhalwanga nto efomini, kuyakuthethwa ngokuba loo ndawo ayisebenzi kumfaki-sicelo. Ukuba icandelo linamanqaku amahle ahamba nempendulo, akukho manqaku aya kufumaneka.

Kukho umqondiso ongqalileyo ("uphawu lwesilumkiso") oya kusetyenziswa ukubonisa apho, ukuba akubhalwanga nto, kuya kuthathwa impendulo emdlelelayo umfaki-sicelo. Ngokomzekelo, ukuba akukho nto ibhaliweyo, kuya kuthathwa ngokuba umfaki-sicelo uphendula ngo-"ewe" kumbuzo othi: "Ngaba wakhe wafunyaniswa unetyala phantsi kwe-MLRA"? Kanjalo olu phawu lwesilumkiso sisenokusetyenziswa ukubonisa ukuba ngokungabhali nto kwimpendulo yombuzo ongqalileyo okanye ofuna inkcazelo engagumbi, kuya kuthathwa ngokuba umfaki-sicelo uphendule ngendlela emdlelelayo. Ngokomzekelo, ukuba akubhalwanga nto, kuya kuthathwa ngokuba umfaki-sicelo uthi "hayi" kumbuzo othi: "Ukhe wasebenza na enqanaweni eyayikwishishini elilinganiselweyo okanye elipheleleyo lokuloba?"

(ii) Inkcazelo efike kade

Inkcazelo engeniswe emva komhla wokuvala ayiyi kuqwalaselwa, ngaphandle kokuba isicelo senziwe yi-Rights Verification Unit, Lowo uphathiswe igunya okanye uMphathiswa njengenxalenye yokwabiwa kwamalungelo okanye yokubhena. Indlela ekuya kusingathwa ngayo inkcazelo engagumbi ngokubhena ichazwe ngezantsi

(iii) Inkcazelo evela kwimithombo engaphandle

Inkcazelo emdlelelayo umfaki-sicelo evela kwimithombo engaphandle ayiyi kuqwalaselwa nguMphathiswa okanye lowo amphathise igunya ngaphandle kokuba umfaki-sicelo unikwe ithuba lokuzithethelela mayela naloo nkcazelo.

(iv) Ukusebenzisa izisele zenkcazelo zeSebe

UMphathiswa okanye lowo amphathise igunya usenokusebenzisa inkcazelo ekwizisele zenkcazelo zeSebe ebudeni benkqubo yokwabiwa kwamalungelo kwexesha elide, kodwa uya kwenjenjalo kuphela ukuba nje abafaki-zicelo balinikiwe ithuba lokuzithethelela ngokuphathelele ukuchana kwaloo nkcazelo.

(v) Ukungeniswa kwenkcazelo yobuxoki okanye iincwadi nokufihla inkcazelo

Abaafki-zicelo okanye abameli ababagunyazisileyo kufuneka bangqine isibhengezo phambi komkomishinala wezifungo besithi, phakathi kwezinye izinto, abafakanga nkcazelo yobuxoki okanye iincwadi ezingezizo yaye akukho nkcazelo ibalulekileyo bayifihlileyo. Ukufaka inkcazelo yobuxoki okanye iincwadi ezingezizo okanye ukufihla inkcazelo ebalulekileyo kukodwa nje kuya kuba sisizathu sokukhatywa kwesicelo.

Kuya kuthathwa ngokuba umfaki-sicelo unikele inkcazelo yobuxoki ukuba kukho ukungangqinelani okukhulu phakathi kwenkcazelo enikelwe ngumfaki-sicelo nenkcazelo ekwizisele zenkcazelo ezigcinwe liSebe nalapho ezi ngxelo kungenakwenzeka ukuba zichane zombini. Kanjalo kuya kuthathwa ngokuba umfaki-sicelo ungeniso inkcazelo yobuxoki ukuba kukho ukungangqinelani phakathi kwenkcazelo enikelwe ngumfaki-sicelo kwisicelo sokuqala nenkcazelo enikelwe ngumfaki-sicelo xa ebhena, yaye kungenakwenzeka ukuba zombini ezi ngxelo zibe zichanile.

Ukongezelela, ukuxoka kwisibhengezo esifungelweyo, kusaziwa ukuba bubuxoki, lityala.

(vi) likopi zeefomu

Akuyi kuba yimfuneko ukuba abafaki-zicelo babe nemibhalo engqinelweyo ebonisa ukuba yikopi yokwenyani kodwa kuya kuthathwa ngokuba nayiphi na ikopi efakiweyo ngumbhalo wokwenene wefomu yokuqala.

(n) Ukucelwa kwenkcazelo engakumbi, ukuphanda nokubonisana

UMphathiswa okanye lowo amphathise igunya usenokucela abo bafake izicelo ukuba banikele inkcazelo ngomlomo okanye banikele inkcazelo engakumbi ebhaliweyo ukuba kukho ukungaqiniseki ngombandela obalulekileyo kwinani elikhulu lezicelo. Ukuba kukho udliwano-ndlebe olunjalo, abameli abasemthethweni baya kuvunyelwa ukuba bathethe noMphathiswa okanye lowo amphathise igunya.

UMphathiswa okanye lowo amphathise igunya usenokucela i-Rights Verification Unit ukuba iphande nawuphi na umbandela, kuquka ubunyani benkcazelo enikelweyo. Abafaki-zicelo bamele basebenzisane nabaphandi

ngokuphendula kwangexesha kwizicelo ezibhaliweyo zenkcazelo okanye ingcaciso, ngokubakho kwiintlanganiso ezibizwe ngabaphandi, ngokuphendula imibuzo ngokwanelisayo kwiintlanganiso ezinjalo, yaye ukuba kuyimfuneko, ngokuvumela abaphandi bangene kwiindawo ekusetyenzelwa kuzo, iinqanawa neencwadi. Ukungabambisani nabo kukodwa nje kuya kuba sisizathu sokukhatywa kwesicelo.

(o) Inkxaso kwabo baphathiswe igunya

Lowo uphathiswe igunya lokwenza izigqibo kwizicelo zecandelo elo usenokuxhaswa yi-*"Komiti Yabacebisi"*, nangabaphathi beenkqubo abanobuchule, abacebisi nabameli bezomthetho. Indima yezi Komiti Zabacebisi iza kumiselwa ngulowo uphathiswe igunya. IKomiti Yabacebisi isenokucelwa ukuba incedise ekuqwalaseleni izicelo phantsi kweliso lalowo uphathiswe igunya, isenjenjalo ngokuvisisana nemigaqo nemilinganiselo emiselweyo.

(p) Uluhlu ethutyana

Lowo uphathiswe igunya usenokukhupha amahlu ethutyana ukuze kuthethwe ngayo nayiphi na inkalo kulo naliphi na icandelo. Ngoko ke, ngokomzekelo, ku-**Cluster C no-D** lowo uphathiswe igunya usenokucela kuphawulwe enoba abafaki-zicelo abaphumeleleyo baxhomekeke kubuncwane kusini na aze ngokusekelwe kuloo magqabaza awafumeneyo enze izigqibo sokugqibela.

Abaphathiswe igunya kumashishini okuloba e-**Cluster A no-B** basenokwenza udliwano-ndlebe ngomlomo ngokubhekisele ekuqwalaselweni kwezicelo ngaphambi kokwenza izigqibo zokugqibela. Kula macandelo, abaphathiswe igunya basenokubonisana namaqela anomdla nachaphazelekayo ngendlela yokwabiwa kwezixa okanye iinzame ngaphambi kokwenza ezo zigqibo.

(q) Ukwaziswa ngezigqibo nezizathu zazo

Emva kokuba lowo uphathiswe igunya enze izigqibo ngokwabiwa kwamalungelo nezixa okanye iinzame, iSebe liya kwazisa umfaki-sicelo ngesigqibo sesicelo ngokumbhalela. Ukongezelela, isebe liya kupapasha iziphumo kwikhompyutha yaye iziphumo ziya kudluliselwa ngamaqumrhu ezoshishino avunyiweyo namaqela anomdla.

Abafaki-zicelo abangaphumelelanga

Abafaki-zicelo abangaphumelelanga baya kufumana okulandelayo kunye neleta ebachazela ngesiphumo sesicelo sabo:

- ☐ Iqela leZizathu Jikelele eziPapashiweyo ezibonisa inkqubo yokulinganisa, inkqubo yokuthathwa kwezigqibo kunye nendlela ezisetyenziswayo malunga nezigqibo ngeminye neenzame;
- ☐ Isizathu esingqalileyo sokungaphumeleli kwesicelo;
- ☐ Ifomu yesibheni, eyifomu enokusetyenziswa ngabaceli ukungenisa isibheni;

- ❑ Isaziso somhla wokuvalwa kokungeniswa kwezibheni, iinkcukacha zeofisi yegunya lezibheni nezinye iimfuneko ezingqalileyo zokungeniswa kwezibheni; kunye
- ❑ Nekopi yephepha lokugqibela lamanqaku elisetyenzisiweyo ukuqwalasela isicelo.

Ukongezelela, ngokuzenzekelayo iincwadi ezilandelayo ziya kufumaneka ukuba zingahlolwa okanye zithengwe ngomrhumo omisiweyo:

- ❑ I-Spreadsheet seZigqibo equlethe ukwankathelo lokuqwalaselwa kwazo zonke izicelo kwelo candelo;
- ❑ Amaphepha okugqibela amanqaku abo bonke abanye abafaki-zicelo; kunye
- ❑ Noluhi lwezigqibo zalowo uphathiswe igunya okanye uMphathiswa.

Isizathu esingqalileyo esikwileta eyazisa ngezicelo ezingaphumelelanga, kunye neeZizathu Jikelele eziPapashiweyo, iphepha lokugqibela lamanqaku nenkcazelo efumaneka ngokuzenzekelayo, zonke ezi ziyila izizathu zezigqibo sokukhatywa kwesicelo.

Abafaki-zicelo abaphumeleleyo

Abaceli abaphumeleleyo baya kufumana oku kulandelayo kunye neleta yabo ebachazela ngesigqibo malunga nezicelo zabo:

- ❑ Iqela leZizathu Jikelele eziPapashiweyo ezibonisa inkqubo yokulinganisa, inkqubo yokuthathwa kwezigqibo kunye nendlela ezisetyenzisiwayo malunga nezigqibo ngeminye neenzame;
- ❑ Ifomu yesibheni, leyo abafaki-zicelo bamele bayingenise kunye nesibheni somyinge okanye iinzame;
- ❑ Isaziso somhla wokuvalwa kokungeniswa kwezibheni, iinkcukacha zeofisi yegunya lezibheni nezinye iimfuneko ezingqalileyo zokungeniswa kwezibheni;
- ❑ Ikopi yawo nawaphi na amaphepha okugqibela amanqaku asetyenzisiweyo ukubhala ingxelo yokuqwalaselwa kwesicelo; kunye
- ❑ Iqela lemiqathango yemvume esebenza kwishishini elo lokuloba.

Ukongezelela, ngokuzenzekelayo iincwadi ezilandelayo ziya kufumaneka ukuba zingahlolwa okanye zithengwe ngomrhumo omisiweyo:

- ❑ I-Spreadsheet seZigqibo equlethe ukwankathelo lokuqwalaselwa kwazo zonke izicelo kwelo candelo;
- ❑ Amaphepha okugqibela amanqaku abo bonke abanye abafaki-zicelo; kunye
- ❑ Noluhi lwezigqibo zalowo uphathiswe igunya okanye uMphathiswa.

IZizathu Jikelele eziPapashiweyo, iphepha lokugqibela lamanqaku nenkcazelo efumaneka ngokuzenzekelayo, zonke ezi ziyila izizathu zezigqibo zokuvunywa kwesicelo selungelo leshishini lokuloba nokunikwa umyinge okanye inzame.

(r) Izibheno

Wonke umfaki-sicelo uya kuba nelungelo lokubhena ngesigqibo salowo uphathiswe igunya. Kusenokubhenwa nxamnye nokukhatywa kwesicelo selungelo okanye nxamnye nesigqibo somyinge okanye iinzame. Iinkcukacha ngendlela yokufaka izibheno ziya kubhalwa kwileta yesaziso.

Igunya lezibheno liya kuqwalasela izibakala njengoko zazinjalo ngomhla wokuvalwa kwezicelo yaye akayi kuziqwalasela izibakala ezibekho kamva. Ngokomzekelo, ukuba umfaki-sicelo utyale imali enqanaweni emva komhla wokuvala eso sibakala asiyi kunikelwa ngqalelo xa kuqwalaselwa isibheno.

Sakuba isigqibo senziwe, lowo ufake isibheno uya kwaziswa isigqibo segunya lezibheno ngokubhalelwa.

(s) Ukufikelela kwinkcazelo

Iingxelo ezilandelayo ziya kufumaneka ngokuzenzekelayo ukuze zihlolwe okanye zithengwe ngomrhumo omisiweyo emva kokuchazwa kweziphumo:

- ☐ Naliphi na iphepha lamanqaku, i-spreadsheet okanye amanye amaphepha asetyenziswe ngulowo uphathiswe igunya, uMphathiswa, okanye abancedisi babo, ukubhala ingxelo yokuqwalasela kwezicelo; kunye
- ☐ Nesicelo somfaki-sicelo okanye amaphepha esibheni, ukuba umfaki-sicelo okanye ummeli wakhe amgunyazisileyo wenze eso sicelo.

Izicelo zokufikelela kwiingxelo ezilandelayo kuya kuthethwa ngazo phantsi komthetho iPromotion of Access to Information Act 2 ka-2000:

- ☐ Ifomu yesicelo yomnye umfaki-sicelo;
- ☐ Izihlomelo ezingeniswe kunye nesicelo zomnye umfaki-sicelo; kanye
- ☐ Namaphepha ezibheni afakwe ngomnye umfaki-sicelo.

Ngokubhekisele ekufikeleleni kwezi ngxelo, igosa lesebe elijongene nenkcazelo (uMalathisi oyiNtloko: Ukuphathwa Kobuncwane Nonxweme) liya kusebenzisa imigaqo nezibonelelo ze- PAIA. Ukuze kuhlangatyezwane nokuqondisa izicelo zokufikelela kwinkcazelo, abafaki-zicelo kuya kufuneka bangenise amaxwebhu athile ekusenokuthi ngenxa yawo igosa lenkcazelo lisikhabe isicelo, njengalawo athetha ngezicwangciso zokuloba zomfaki-sicelo, izicwangciso zokuthengisa neengxelo zokuma kwemali, kwisicelo esahlukileyo.

6.4 Ukwenziwa kwezigqibo

Zonke izigqibo ziya kusekelwa kwimithetho esebenzayo yaye zikhokelwe yimigaqo-nkqubo esebenzayo. Imigaqo-nkqubo nesisele senkcazelo ezihlanganisiweyo emva kokufunyanwa kwezicelo, ziya kusetyenziswa ukuqulunqa imigaqo nemilinganiselo yokuweyisha ephucuke ngakumbi ngeenjongo zokuqwalasela izicelo.. Le migaqo iphuhlisa ngokubhekiselwe kwinkcazelo efumaneka emva komhla wokuvala yaye ngenxa yoko ayikhutsha ngaphambi kwenkqubo yokunikezelwa.

(a) Imigaqo esetyenziswayo ngezigqibo zokunikezelwa kwamalungelo

Isibe lilindele izicelo ezininzi zamalungelo exesha elide yaye lilindele ukuba, ekubeni kukho imiqathango ekhoyo ekubambiseni okanye iinzame kuwo onke amashishini okuloba, asingabo banke abafaki-zicelo abaya kunikwa amalungelo. Bambi abafaki-zicelo abayi kwamkelwa kuba bengahlangabezani neemfuneko. Abanye bacwangciswa ngokwemigaqo emiselwe ukufikelela iinjongo ezithile ukuze kubonwe abona bafaki-zicelo bafanelekileyo ngokwemigaqo-nkqubo nemigaqo yokuweyisha. Le nkqubo kuyakhutshiswa yaye injongo kukufumana abona bafaki-zicelo basemgangathweni.

Zine iintlobo zemigaqo eziya kusetyenziswa ukuhluzisa izicelo.

Izicelo ziya kuqwalaselwa ngokumiselwa kwe- "migaqo yokuhluzisa", zize emva koko zibekwe nge-"ngemigaqo elungelelanisiweyo yokuweyishaa". Ukongezelela, kwamanye amacandelo, ophathiswe igunya uya kusebenzisa "izizathu ezeyisayo" ukuze enze isigqibo ukuba kukho abafaki-zicelo abaninzi abanamanqaku alinganayo. Kuya kwandula ke kunikezelwe inxalenye ethile ye-TAC okanye i-TAE kumfaki-sicelo ngamnye ophumeleleyo kusetyenziswa "imigaqo yemiyinge okanye yeenzame".

(i) Imigaqo yokuhluzisa

Zintathu iintlobo zemigaqo yokuhluzisa eziya kusetyenziswa.

Okokuqala, isicelo siya kuqwalaselwa ukuze kubonwe enoba sifakwe ngokufanelekileyo kusini na. Isicelo asifakwanga ngokufanelekileyo ukuba sifunyenwe emva kwexesha; ukuba umfaki-sicelo akawuhlulwulanga umrhumo wesicelo okanye intlawulo ayanelanga okanye ifike kade; okanye ukuba sifakwe ngendlela eyahlukileyo kwimiyalelo, njengokusithumela nge-fax, okanye nayiphi na enye indlela ngaphandle kwaleyo ichazwe ngokusemthethweni kwifomu yesicelo,

Lowo uphathiswe igunya kunye noMphathiswa akasebenzisi ngqiqo ukuze angxengxezele ukungavumelani neemfuneko zokungeniswa kwezicelo.

Okwesibini, isicelo siya kuhluzwa ukubona enoba kukho iiziphene kwinkcazelo. Isicelo asigqibelelanga ukuba isibhengezo asisayinwanga ngumfaki-sicelo, okanye ukuba isibhengezo somfaki-sicelo asifungelwanga nguMkomishinala Wezifungo, okanye ukuba bekufumaneka izicelo ezingaphezu kwesinye kumfaki-sicelo selungelo

lokuloba kwicandelo elinye, okanye ukuba umfaki-sicelo ubhale inkcazelo yobuxoki okanye iincwadana ezingezizo, okanye kukho inkcazelo ebalulekileyo ayifihlileyo, okanye ulinge ukuphemelela uMphathiswa okanye lowo uphathiswe igunya ngendlela eyahlukileyo kuleyo iboniswe kulo Mgaqo-nkqubo jikelele ebudeni bexesha lokufakwa. Ku-Cluster A, abahloli-zincwadi abazimeleyo kufuneka bangqiniseke iimpendulo ezithile zomfaki-sicelo nokuqulunqa ingxelo baze bayisayine kule nkalo. Ukuba umfaki-sicelo uthembele ngenkcazelo engeniswe ziinkampani ezingoonozala okanye amanye amalungu eqela leenkampani okanye amaqumrhu asebenzisanayo eshishinini, abameli abagunyazisiweyo bala maqela nabo kufuneka basayine baze bafungele eso sibhengezo. Kanjalo isicelo siya kugqalwa njengesingafanelekanga ukuba ingxelo yomhloli-zincwadi ozimeleyo ayikho kwaye ayisayinwanga (ukuba oko kuyasebenza) okanye ukuba isibhengezo sommeli ogunyazisiweyo wenkampani engunozala, ilungu leqela leenkampani okanye amaqumrhu asebenzisanayo asisayinwanga saza safungelwa. Lowo uphathiswe igunya kunye noMphathiswa abanagunya lakusebenzisa ingqiqo ekubetheni ngoyaba ukutyeshelwa kweemfuneko ezimayela nezicelo ezingafanelekanga.

Okwesithathu, isicelo siya kujongwa ukubona enoba umfaki-sicelo uyahlangabezana neemfuneko ezisisiseko zokuba nenxaxheba kwelo candelo. Lowo uphathiswe igunya kunye noMphathiswa abanagunya lakusebenzisa ingqiqo ekubetheni ngoyaba ukutyeshelwa kweemfuneko ebalulekileyo yokuba nenxaxheba kwicandelo. Imfuneko ezibalulekileyo zahlukile kwicandelo ngalinye. Ngokomzekelo, kwinkqubo yangaphambili yokwabiwa kwamalungelo abantwili abaloba i-abalone, kwakufuneka abafaki-zicelo babonise, phakathi kwezinye izinto, ukuba umfaki-sicelo ungumntwili ovumelekileyo nonesiqinisekiso se-Class I (ukubambisa ngaphezulu), II okanye u-III Commercial Diver phantsi kommiselo 14 weMimiselo eyaphunyezwa phantsi komthetho i-Occupational Health and Safety Act, 1993 (GN Regulation 10 ka-11 January 2002).

(ii) Indlela yokulinganisa: abangeneli abatsha nabanini-malungelo bexeshana

Izicelo ezifakwe kakuhle, ezingenasiphako ngokombandela nezihlangabezanayo neemfuneko ezibalulekileyo ziya kunikwa amanqaku ngokoluhi lwemigaqu elungelelanisayo (*"the balancing criteria"*). Le migaqo iya kuweyishwa ngenjongo yokuhlaza abafaki-zicelo. Yimbi yale migaqo, njengotshintsho, iya kusebenza kuwo onke amacandelo, ngoxa eminye iya kungqala kumacandelo athile.

Izicelo zabanini-malungelo exesha eliphakathi aziyi kuba namanqaku afanayo ngokwemigaqo nokuweyishwa kwabangeneli abatsha yaye ziya kuhluzwa ngokwahlukileyo. Imida ke iya kumiselwa ngokwahlukileyo kubanini-malungelo bexesha eliphakathi nabo basenokuba ngabangeneli abatsha. Bonke abafaki-zicelo abanamanqaku alingana okanye angaphezu komda osikiweyo baya kwabelwa amalungelo.

(iii) Izibakala ezeyisayo

Ukuba kukho abafaki-zicelo abaninzi abanamanqaku afanayo, lowo uphathiswe igunya usenokusebenzisa imigaqo eyeyisayo, ukuze akhethe phakathi kwabafaki-zicelo abanamanqaku alinganayo. Ezi zibakala zeyisayo zisenokuquka imigaqo enganikwa manqaku okanye enamanqaku aweyishwa ngokwahlukahlukeneyo.

(b) Imigaqo esetyenziswayo ukunikela umyinge okanye inzame

Kukho izigqibo ezibini ezahlukeyo. Emva kokuba kuthatyathwe izigqibo zokufumanisa abafaki-zicelo abaphumeleleyo, lowo uphathiswe igunya uya kugqiba ngokwabiwa komyinge okanye inzame kumfaki-sicelo ngamnye ophumeleleyo ngokuvisisana nomgaqo-nkqubo ochazwe kwisiqendu 7.2 ngezantsi.

ICANDELO C: IINGQWALASELA EZIXANANAZILEYO ZOMGAQO-NKQUBO ONGOKWABIWA KWAMALUNGELO

7. lingqwalasela zoMgaqo-nkqubo

Lo Mgaqo-nkqubo jikelelea umele ufundwe kunye nemigaqo-nkqubo engqamene nefishari yokuloba eye yamkelwa kwicandelo ngalinye. Le Mgaqo-nkqubo jikelele i uya kusebenza ngaphezu komgaqo-nkqubo engqamene nefishari, ukuba iqonde ngakumbi kwelo candela likhethekileyo.

lingqwalasela zomgaqo-nkqubo ezithiwe thaca ngezantsi, kunye nesisele senkcazelo esiqulunqwe emva kokufunyanwa kwezicelo, ziya kukhokela lowo uphathiswe igunya ekuphuhliseni imigaqo eneenkukacha yokuthintela, imigaqo elungelelanisayo yabanini-malungelo bexesha eliphakathi nabo basenokuba ngabagneneli nezibakala ezeyisayo. Imigaqo-nkqubo ye Fishariyokuloba iya kunikela isikhokelo esingakumbi kule nkalo.

Lo Mgaqo-nkqubo jikelele nemigaqo-nkqubo yefishari zokuloba ayibeki mithetho ingenakujikwa okanye igubungele zonke iinkalo neengqwalasela eziya kuhloliswa ekumiseleni nasekusebenziseni imigaqo yokulungelelanisa, ukweyisa nokubeka umyinge okanye inzame. Abo baphathiswe igunya baya kuba negunya lokuphuhlisa nokusulungekisa imigaqo ukuba nje ixhomekeke, yaye iyavisisana, nemithetho esebenzayo, lo Mgaqo-nkqubo gabalala kunye nemigaqo-nkqubo engqamene ngqo namashishini okuloba.

Ngaphandle kokuba kuchazwe ngenye indlela kwiifomu zezicelo, yinkcazelo enokuthanani nomfaki-sicelo kuphela eya kuqwalaselwa. Ngokubhekisele kwiinguqu, ukudalwa kwemisebenzi notyalo-mali nezinye iinkalo ezingqalileyo, abafaki-zicelo abayinxalenye yeqela leenkampano okanye amaphulo ayintlanganisela, kusenokufuneka inkcazelo engeqela elo okanye intlanganisela (kungekhona inkcazelo yomfaki-sicelo kuphela).

7.1 Ubude bexesha lamalungelo

Amalungelo okuloba exesha elide aya kunikezelwa kuwo onke amashishini okuloba, isithuba seminyaka ephela kwi-15, ngaphandle kwakumashishiniorhwebo lwe-Oyster ne-White Mussel, wona asakhasayo.

Ubude bexesha lamalungelo buya kumiselwa, phakathi kwezinye izinto, liqondo lotshintsho kwishishini elo okuloba, ulwazi olukhoyo ngoku ngobume bemvelo bolo hlobo lwentlanzi; izimali zeshishini okuloba nemfuneko yokukhuthaza utyalo-mali olungakumbi nokukhula koqoqosho, nendlela abaqhuba ngayo abo banenxaxheba kwelo shishini okuloba.

7.2 Uhlobo lomnini-lungelo

Ngokutsho kweCandelo 18 le-MLRA ngabantu baseMzantsi Afrika kuphela abanokufumana amalungelo okuloba. Icandelo 1 loMthetho lichaza umntu waseMzantsi Afrika ngokuthi ngummi okanye inkampani, ukopoletyeni ("close corporation") okanye imbumba yababambeli ("trusts") yaseMzantsi Afrika. Ngoko ke, amalungelo okuloba akanakwabelwa abantu abadibene ngeshishini, imibutho, amashishini omdibaniso, imibutho yasekuhlaleni.

Ngokwalo mgaqo-nkqubo, amalungelo eshishini okuloba kuCluster C no-D aya kunikwa kuphela abantu ngabanye (abemi bomthonyama), ngaphandle kwakwi-Hake Handline ne-Beach Seine yase-KZN, apho kuzo nookopoletyeni baya kuvunyelwa ukufaka izicelo. Abantu ngabanye ababengamalungu ookopoletyeni, ababenezabelo eziinkampanini okanye abafumene ilifa elaligcinwe ngababambeli xa kwakusabelwa la maqela amalungelo exesha eliphakathi ngowe-2001 no-2002 ku-Cluster C no-D (ngaphandle kwakwi-Hake Handline ne-Beach Seine yase-KZN) baya kuqwalaselwa njengabanini-malungelo bexesha eliphakathi kwinkqubo yokwabiwa kwamalungelo exesha elide. Lowo uphathiswe igunya usenokugqala abanye abantu njengabanini-malungelo bexesha eliphakathi ukuba, ngokomzekelo, babelawula igunya lexesha eliphakathi, abalifumene ngokudluliselwa okuvunyiweyo ligunya eligunyazisiweyo.

Ngokwalo mgaqo-nkqubo, amalungelo eshishini okuloba ku-Cluster A no-B aya kunikezelwa kuphela kumaqumrhu asekwe ngokuvisisana ne-Close Corporations Act 69 yowe-1984 kunye ne-Companies Act 61 yowe-1973. Abanini-malungelo exesha eliphakathi awayesebenza njengababambeli okanye imibutho okanye bezisebenzela nje, bamele bathabathe amanyathelo okuseka ukopoletyeni okanye inkampani ngaphambi kwenkqubo yokwabiwa baze banyule iqela elitsha eliza kufaka isicelo. Loo kopoletyeni okanye inkampani ekhethiweyo iya kugqalwa njengomnini-lungelo okhoyo, ukuba nje umfaki-sicelo lowo ubonisa ukuba ukopoletyeni okanye inkampani iza kungena ezihlangwini zomnini-lungelo wangaphambili. Ilungelo liya kunikezelwa kwiqumrhu elitsha kungekhona kumntu omnye okanye obambeleyo. Lo mgaqo-nkqubo awuthethi kuthi ababambeli bakhutshela ngaphandle ekubeni nezabelo kwisicelo okanye ukuba nelungelo.

Kwamanye amashishini okuloba, abafaki-zicelo baya kukhuthazwa ukuba badibane okanye babelane ngezixhobo emva kwenkqubo yokwabiwa kwamalungelo. Iinkukacha ezithe vetshe ziyafumaneka kwimigaqo-nkqubo yeshishini okuloba kwelo candelo.

7.3 Inguqu

I-MLRA ifuna ukuba abathathi-zigqibo banikele ingqalelo kwimfuneko yokuhlenga-hlengisangokutsha ishishini okuloba ukuze kulungiswe ukungalingani kwembali nokufumana ulingano phakathi kwawo onke amasebe eshishini okuloba. Utshintsho luyimfuneko kwaye lunyanzeliswa ngumgaqo-siseko eMzantsi Afrika. I-Broad-Based Black Economic Empowerment Act 53 yowama- 2003 sesinye sezixhobo zomthetho ezinika ifuthe kwesi siphakamiso somgaqo-siseko. Lo Mthetho unesibonelelo sokuba uMphathiswa Wamashishini Nemizi-mveliso usenokukhupha iikhowudi zoqheliselo oluhle lokuxakathiswa kwabamnyama kwezozoqosho ngezaziso ezikwiGazethi. Iikhowudi ezibhaliweyo kwiinkalo ezithile zipapashiwe ukuze kufunyanwe izimvo. Ezi khowudi zibonelela nge-*"balanced scorecard"* ukulinganisa inkqubela nobume kumashishini nokwamkela imiqulu yotshintsho kumacandelo athile ezozoqosho ngabo banebango elikhulu kuloo macandelo.

Umthetho neekhowudi ezibhaliweyo zaziqwalaselwe ekuqulunqeni lo mgaqo-nkqubo nemigaqo-nkqubo yefishari zokuloba. Noko ke, ngenxa yohlobo lwenkqubo yokwabiwa kwamalungelo, uMphathiswa Wemicimbi YezeNdalo Nokhenketho ukuza kuthi ga ngoku akakukhuthazi ukwamkelwa kwale miqulu (*"charters"*) kumacandelo okuloba yaye akayamkelanga nemigaqo yokuweyisha nokumisela njengezikhokelo eyandlalwe kwiikhowudi ezibhaliweyo mayela nobunini nokuphatha. Xa esaba amalungelo okuloba, lowo uphathiswe igunya kufuneka athelekise abafaki-zicelo, kunokuba abajonge ngokwemigaqo yangaphandle emisiweyo. Utshintsho yingwalasela ebaluleke kakhulu kule nkqubo. Inkqubo inokhuphiswano kakhulu yaye akukho *"benchmark"* inokubekwa kusengaphambili. Kwicandelo elingatshintshanga ngokwaneleyo, abafaki-zicelo abanamanqaku aphezulu kunawabanye ngeguqu baya kusoloko besethubeni elihle lokunikwa ilungelo okanye inxalenye enkulu ngakumbi efumanekayo ye-TAC okanye i-TAE. Umgaqo-nkqubo uthi kwimeko enokhuphiswano ngolo hlobo xa kuthelekiswa, ukwamkelwa kwemiqulu (*"charters"*) okanye imigaqo ekhokelayo akusoloko kususixhobo esifanelekileyo sokuhambisela phambili utshintsho.

Umgaqo-nkqubo kukuhambisela phambili utshintsho nokuphucula amaqondo enguqu afikelelweyo ebudeni bokwabiwa kwamalungelo kwexesha eliphakathi.. Kwinkqubo yokwabiwa kwamalungelo kwesexesha elide, yinguqu mgangathweni kuphela eya kuqwalaselwa, oko kukuthi, inguqu oluphumela kwiingenelo zokwenene kubantu ababekade behlelelekile ngokwembali.

Abantu babehlelelekile ngokwembali kwishishini okuloba ngenxa yohlanga lwabo ekufikeleleni kumalungelo. Ngenxa yoku kuyimfuneko ukukhuthaza ukuba nenxaxheba kwabo babehlelelekile ngokwembali kuzo zonke iinkalo zoshishino ngokuloba. Kwakhona kuyimfuneko ukulungisa ukungalingani okungokwembali nokwenza umakulingwane kweli shishini ngokuthabatha inxaxheba kwamabhinqa, njengoko nabo, babebekelwe ecaleni ngaphambili. Kwinkqubo yokwabiwa uhlanga nesini sabafaki-zicelo, ibe kwimeko yabantu abaphantsi kolawulo lomthetho, uhlanga nobuni babanini-zabelo

okanye amalungu kumfaki-sicelo, ulawulo, abo kuthengwa kubo nabasebenzi, kusenokuqwalaselwa. Oku kuya kwenziwa ngendlela echazwe ngezantsi. Ukongezelela, utyalo-mali kwezentlalo kusenokuqwalaselwa ngendlela echazwe ngezantsi.

Ku-Cluster A, abafaki-zicelo kuya kufuneka bafune abahloli-zincwadi bangaphandle ukungqinisisa inkcazelo engeniswe kwimigaqo echaziweyo.

(a) Uhlanga

Abantu ngokwembali abacalulwa ngokuba "*ngabaNtsundu*", "*abeBala*" kunye "*namaNdiya*" baya kugqalwa njengababehlelekile ngobuhlanga, ukuba nje bangabemi boMzantsi Afrika ngokokuzalwa okanye bazuze ubumi ngaphambi kowama-27 April 1994.

Ku-Cluster C no-D, inani eliqingqiweyo lamanqaku liya kunikwa abafaki-zicelo abamnyama. Apho nookopoletyeni bevunyelwe ukungena(kwi-hake handline ne-KZN Beach Seine), umfaki-sicelo kakopoletyeni uya kunikwa ipesenti ethile yamanqaku ngokwepesenti yezilangazelelo zamalungu abantu abamnyama kuloo kopoletyeni. Abaphathi abamnyama, ukulingana emsebenzini, ukuthenga iinkonzo kumashishini athile nokutyala imali ekuhlaleni kusenokuqwalasela ku-**Cluster C no-D**.

Ku-Cluster A no-B, amanqaku aya kunikezelwa ngobunini nokuphatha kwabamnyama, ngendlela echazwe kanye apha ngezantsi.

(i) Ubunini

Ubunini obuxhanyulwa ngabantu abamnyama kumfaki sicelo, ngamalungelo okuvota angenamiqathango nezilangazelelo zoqoqosho ezinxulumene nobunini, buya kuvavanywa buze buqwalaselwe. Ekumiseleni enoba amalungelo okuvota nezilangazelelo zoqoqosho "*azinamiqathango*" abo baphathiswe igunya kusenokunikela ingqalelo kwiKhowudo 100 efakelweyo, epapashiweyo ukuze kufunyanwe izimvo ngokwe- Broad-based Black Economic Empowerment Act. Inkqubo yokuweyisha esekelwe kule Khowudi ayiyi kusetyenziswa.

Umgqo wokulandelela, ocetyiswe kwiKhowudi 100, usenokusetyenziswa ukuba kufanelekile. Ngokomzekelo, ukuba inkampani A inezabelo ezingama-20% kwinkampani B yaye i-10% yobunini kwinkampani A yeyeentlanga ezityunjiweyo, isabelo sayo sinegalelo le-2% kubunini ngokwezoqoqosho benkampani B kuloo maqela. Ukuba inkampani A yayinama-55% ezabelo zenkampani B yaye ubunini babamnyama kwinkampani A babungama-60%, inegalelo lama-33% kubunini benkampani B ngokoqoqosho kubantu abamnyama.

Kusenokunikezelwa amanqaku awongezelelekileyo kwabo bafaki-zicelo baye baphumelela ukuxhobisa abasebenzi babo ngamacebo ezabelo ezihlanganyelweyo, ukuba nje umfaki-sicelo angabonisa ukuba abasebenzi bakhe baxhamle iingenelo zokwenene (njengee-dividends) kwelo cebo.

Kwimeko yabafaki-zicelo bamalungelo exesha eliphakathi (abaphumeleleyo okanye abangaphumelelanga), kusenokufakwa amanqaku kokubini kwimeko yangoku nenkqubela eyenziweyo. Lowo uphathiswe igunya usenokumisela iqondo lotshintsho elizisa elona nani liphezulu lamanqaku ngobunini babamnyama. Elona nani liphezulu lamanqaku obunini babamnyama liya kuthi ke linikwe abo bafaki-zicelo bafikelela elo qondo.

(ii) Ulawulo

Isikhundla esiphezulu okanye esokulawula somfaki-sicelo esiphethwe ngabantu abamnyana siya kuqwalaselwa. Ngokuqhelekileyo isikhundla esiphezulu okanye esolawulo sichazwa njengezabantu abanembopheleleko yokukhokela imisebenzi yeenjongo zenkampana nabo baphendula ngqo kumlawuli ophetheyo okanye iBhodi. Ngeenjongo zenkqubo yokwabiwa kwamalungelo kwexesha elide, inkqubo yolawulo yomfaki-sicelo iya kuvavanywa ngeendlela ezintathu. Okokuqala, inkcazelo engenisiweyo yeengxelo zokulingana emsebenzini iya kuqwalaselwa ukuba kuyasebenza oko. Ukuba ayikho, abafaki-zicelo baya kucelwa ukuba bayingenise loo ngxelo. Okwesibini, kuya kuqwalasela indlela ebunjwe ngayo ibhodi yabalathisi. Okwesithathu, kuza kufuneka umfaki-sicelo anikele inkcazelo ngabona bantu bafumana imivuzo ephezulu.

(b) Isini

Ukuba kuyasebenza, ukufumana ubunini nokuphatha kwamabhinqa kuya kunikelwa ingqalelo ku-**Cluster A no-B**. Ku-**Cluster C no-D**, isini sisenokuqwalaselwa, ngokomzekelo, njengesizathu eseyisayo.

(c) Ukulingana ngokwemisebenzi

Abafaki-zicelo ngokomthetho ekufuneka bavumelane ne-Employment Equity Act 55 yowe-1998 bamele babonise ukuba bayavumelana nawo. Inani labantu abamnyama namabhinqa aqashwe ngumfaki-sicelo lisenokuba ngumgaqo olungelelanisayo. Amanqaku angakumbi aya kunikwa abantu abamnyama namabhinqa akwinqanaba eliphezulu kwimivuzo yomfaki-sicelo okanye kwizikhundla eziphezulu nezobuchule obuthile, kunaleyo yamanqanaba aphantsi nezikhundla ezingafuni buchule. Ngokomzekelo, kusenokufunwa ukuba abafaki-zicelo bachaze umyinge weepesenti wabantu abamnyama namabhinqa kwi-10% yabafumana umvuzo ophezulu, phakathi ko-10% no-30% phezulu, nabaku 50% nabangaphansi kuka 50%, okanye bachaze inani labamnyama namabhinqa akwizikhundla zolawulo nezinye ezifuna ubuchule. Kuya kufumaneka amanqaku angakumbi ngabantu abamnyama namabhinqa akwimirholo ephezulu kunabo bakwimirholo esezantsi yaye kuya kunikezelwa ngamanqaku angakumbi ngabo bamnyama namabhinqa abekwe kwizikhundla zobuchule kunezo zingezobuchule. Ngenxa yendlela emi ngayo imeko-bume yobuhlanga kwiindawo zokusebenza eMzantsi Afrika, ukwahlukahukana kwemivuzo kusenokuqwalaselwa.

(d) Ukuphuhliswa Kwezakhono

Abafaki-zicelo kuya kufuneka babonise ukuba bayavumelana nomthetho i-Skills Development Act 97 ka- 1998 ne-Skills Development Levies Act 9 ka-1999. Ukuba umfaki-sicelo unenxaxheba kwiinkqubo zokunika abafundi amava omsebezni, okanye uchitha imali engakumbi ekuqeqesheni abamnyama, oku kuya kuthatyathelwa engqalelweni.

(e) Ukunikezelwa komsebenzi kwabathile

Ukunikezela abathile umsebenzi (ukuthenga kwiinkampani zabamnyama) kuya kuba nefuthe.

(f) Inxaxheba yeNkampani Entlalweni

Inxalenye yengeniso echithwe kutyalo-mali lokuphucula intlalo kwenkampani ebudeni bokuba namalungelo ngaphambili kusenokuqwalaselwa. Imirhumo etsalwa irhafu isenokugqalwa njengetyalwe ekuphuculeni intlalo yaye neminye imirhumo isenokuqwalaselwa.

7.4 Ukubandakanywa kwamacandelo amaninzi

Ngokuqhelekileyo, asingomgaqo-nkqubo ukubekela bucala okanye ukwalela ukuba namalungelo okuloba kwishishini elingaphezu kwelinye. Oku kuxhomekeke kwimiqathango mibini.

Okokuqala, abo banamalungelo ku-**Cluster A no-B** (kuquka abanebango elikhulu namalungu amaqela awo akwizikhundla zolawulo) abayi kuvunyelwa ukuba namalungelo okushishini ngokuloba ku-**Cluster C no-D**, macandelo lawo abekelwe oosomashishini abancinane nabaphakathi nabalobi abangabanye abaxhomekeke kwezo ntlanzi ukuze baphile. Abo banamalungelo ku-**Cluster C no-D** abazimisele ukufumana izabelo ku- okanye izilangazelelo ezithile ku-**Cluster A no-B**, emva kokwabiwa, basenokuvunyelwa ukuba badlulisele amalungelo abo ecandelo **Cluster C no-D** kwabanye abantu bemveli. Abo baphathiswe igunya lokwenjenjalo baya kuziqwalasela izicelo zodluliselo olunjalo.

Okwesibini, abo banamalungelo abayi kuvunyelwa ukuba namalungelo kwishishini elingaphezu kwelinye ku-**Cluster C okanye u-D**, ngaphandle kokuba:

- ☐ Abo banamalungelo basenokuba nale ntlanganisela ilandelayo yamalungelo: i-white mussel, i-west coast rock lobster (ngaselunxwemeni) ne-netfish (i-Gill ne-Treknet ne-Beach Seine);
- ☐ Ilungelo okuloba i-KZN Beach Seine lisenohamba nelungelo le-oyster.

7.5 Ukumanywa kwamashishini

Phakathi kowe-1994 nowe-2004, inani labantu abanamalungelo kumashishini okuloba lande ngendlela emangalisayo. Xa kwakusabiwa amalungelo, kwaqwalaselwa ngokukhethekileyo intswelo yokuvumela abangeneleli abatsha, ngokukodwa abo bavela kumacandelo abantu ababehlelekile ngokwembali. Ngenxa yoko, kumacandelo amaninzi kukho ukumelwa ngokwamanani kwabanini malungelo ababehlelekile ngokwembali. Kodwa ukumelwa ngokwamanani akusoloko kuthetha ukuba kukho uthabatho-nxaxheba olubanzi noluphumelelwayo lwabanini malungelo ababehlelekile ngokwembali. Ukumanyaniswa kwamashishini, kunokuba ibe kukwandisa inani labo banamalungelo, kube yimfuneko ukuze kuqhutyekwe nothabatho-nxaxheba oluphumelelayo.

Kwakhona ukumanywa kube yimfuneko ukuze kulawulwe le mveliso, ukuphucula ukuthobela nokunciphisa uxanduva lolawulo neendleko kwiSebe nabanini malungelo. Oku kuthetha ukunciphisa inani lamaqela, ngokukodwa lawo anabantu abanebango abanye okanye abafanayo namaqela abaphathi needilesi ezifanayo kwimveliso ethile yeentlanzi. Kumacandelo amaninzi, kuya kuvulwa iinyoba zokuba emva kwenkqubo yokwabiwa uMphathiswa uya kuba neliso lemfoke kumanyano lwamashishini olungasingeli phantsi utshintsho. Kwinkqubo yokwabiwa kwamalungelo exesha elide, abo banamalungelo asikelweyo abayi kuvunyelwa ukuba bazame ukukhulisa kwakwicandelo elinye ngokufaka isicelo samalungelo angakumbi ngegama elahlukileyo yaye abanakuba nezabelo kubafaki-zicelo abafuna ukuba ngabangeneleli abatsha.

7.6 Abangeneleli abatsha

Umba wabangeneleli abatsha ngumba ongqalileyo kwishishini okuloba yaye kuthethwa ngawo kwimigaqo-nkqubo engqamene namashishini okuloba. Kuboniswa umahluko ocacileyo, kwimigaqo-nkqubo yamashishini okuloba, phakathi kwabangeneleli "*abongezelelekileyo*" kunye "*nabangeneleli abatsha*". Ukuze kuvunyelwe uthabatho-nxaxheba lwabangeneleli abangakumbi inani labathabathi-nxaxheba kwicandelo kuya kufuneka landiswe ukusuka kwini elikhoyo. Ngokuqhelekileyo, akukho ndlela yakungenisa abangeneleli abongezelelekileyo kuba kwiinkoliso yamashishini okuloba sele enabantu abaninzi gqitha. Noko ke, abangeneleli abatsha basenokungeniswa ngokungena endaweni yabafaki-zicelo abanamalungelo abangaphumelelanga. Oku kuya kwenziwa ukuba abo banamalungelo ngoku baye basilela kakhulu ukwenza iinguqu, okanye ukuba abo banamalungelo ngoku baye basilela ukusebenza okanye ukutyala imali ngokwaneleyo, okanye ukuba ishishini elo kolo hlobo loreshishino lweentlanzi ligqalwa njengelisilelayo. Kwamanye amacandelo, ukuze kuqiniseke abanini malungelo kwelo candela, inani labathabathi-nxaxheba liya kuncitshiswa ngokuthi banganikwa amalungelo abo ngoku baphethe loo malungelo abathi bafumane amanqaku asezantsi, baze bangathatyathelw' indawo ngabangeneleli abatsha.

Ngokuqhelekileyo, iSebe aliya kubavumela abanini malungelo abalithengisayo okanye abathi nangayiphi na enye indlela balityeshela ilungelo labo ukuze bangenelele kwakhona kwelo shishini okuloba. Oku kunjalo nakubanini zabelo okanye amalungu okopolotyeni abathengisa inani elikhulu lezabelo zomni lungelo.

7.7 Intsebenzo

Ukusebenza kwabanini malungelo abakhoyo kusenokuvavanywa ngendlela echazwe ngezantsi.

(a) Intsebenzo ngokwemali

Ukwenza ngokwezimali kungaqwalaselwa ngokusetyenziswa kwee-financial ratio ezibabeka kumgangatho oxhaswa ziinkcukacha zezimali ezihlotwe ngabahloli-zincwadi. Iinkcukacha zezimali zisenokusetyenziswa ukugqiba enoba ngoobani abona bazuza ngokwenene kolo lwabiwo (umgaqo othi "follow-the-buck") nokuqinisekisa enoba umnini lungelo utyale imali kusini na eshishinini.

(b) Ukuhlawulwa kweerhafu

Abafaki-zicelo kuya kufuneka bakhuphe ubungqina bokuba abakho semva ekuhlawuleni iirhafu zabo ngeentlanzi abazibambisileyo ebudeni bexesha lokuba namalungelo e-medium term. Ukuba iirhafu bezingahlawulwa ixesha elingaphezu kweentsuku ezingama-60, lowo ufake isicelo usenokufumana isohlwayo. Kodwa ukuba umfaki-sicelo uyaphumelela ukunikwa ilungelo, iSebe aliyi kuyikhupha imvume de ibe imali engekahlawulwa ihlawulwe ngokupheleleyo.

(c) Ukuthobela

Abafaki-zicelo abafunyaniswe benetyala lokwaphula ngokunzulu i-MLRA, imiMiselo, imiqathango yemvume namanye amatyala anjalo kwishishini lokuloba, ebudeni bexesha eliyi-medium term, basenokungamkeleki. Amatyala amancinane, kuquka ukuhlawula imali yokuvuma ubutyala, asenokuqwalaselwa njengomgaqo othethelelayo.

Iinqanawa ezikuluhlu olungafanelekanag kuyo nayiphi na i-Regional Fisheries Management Organisation ("RFMO") aziyi kuvunyelwa ukuthutha izixa zeentlanzi. Abafaki-zicelo ezizezabo (ngokupheleleyo okanye ngokuyinxenye) okanye abakhetha iinqanawo ezikuluhlu alungafaneleekanga abayi kwamkeleka.

Iingxelo zeSebe ezihlobene nokuphazamisana ne-MLRA ziya kufumaneka ukuba zihlotwe ngaphambi kwenkqubo yokwabiwa kwamalungelo.

(d) Intsebenzo yokuloba

Ukuloba kwabo banamalungelo e-medium term kuya kuhlolisiswa ukuqonda enoba umfaki-sicelo onelungelo lokuloba uye wabambisa ngokuphumelelayo kusini na ebudeni belungelo le-medium-term. Abafaki-zicelo abangabambisanga naziphi na iintlanzi ebudeni bexesha lokuloba okanye abangakhange bayiphuthume imvume yabo basenokukhatywa.

Ukubambisa kancinane okanye ngokugqithiseleyo kusenokusetyenziswa njengomgaqo ogqibayo kwamanye amacandelo.

lingxelo zeSebe zoko kubanjisiweyo ziya kufumaneka ukuba zihloliwe ngaphambi kokwabiwa kwamalungelo, ukuba ziza kusetyenziswa ebudeni benkqubo yokwabiwa kwamalungelo.

7.8 Utyalo-mali

Utyalo-mali kwiinqanawa eyenzelwe ukuloba ubuncwane nezinye izinto zexabiso ezisisigxina ziya kuqwalaselwa lo gama nje olo tyalo-mali lubonisa ukuzimisela ngenene ukwabelana ngomngcipheko wokuba nenxaxheba kwelo candelo. Ukuba nesabelo kwiinqanawa ezifunyenwe ngexabiso eliphantsi okanye ngaphandle kokudlela komfaki-sicelo akuyi kugqalwa njengokufaka imali eshishinini. Ubungakanani botyalo-mali buya kuvavanywa ngokwentelekiso nobungakanani bezixa ebudeni benkqubo yokwabiwa kwamalungelo kwe-medium term.

7.9 Ukuba nelungelo nje ngegama ("paper quotas" - abafaki zicelo abanganyanisekanga)

Lowo uphathiswe igunya umele azabalazele ukuthintela ukuba kungabikho bafaki-zicelo nje bamaphepha kweli shishini yaye abakhuphe abo banamalungelo nje ngegama. Abanini-malungelo nje ngegama basingela phantsi okanye bakatya iinjongo zenkqubo yokwabiwa kwamalungelo.

(a) Abangeneli abatsha

Kwinkqubo yokwabiwa kwamalungelo kwexesha elide, lowo uphathiswe igunya uya kubakhupha abangeneli abatsha ababonakala ngathi baza kuba namalungelo nje ngegama. Ngenxa yale njongo, umgunyaziswa uya kumgqala umfaki-sicelo njengo-faki-sicelo nje ngegama" ukuba loo mfaki-sicelo ubonakala engenazinjongo zinyanisekileyo zokuhlanganyela umngcipheko wokuba nenxaxheba ngokuzeleyo kwelo candela, ngokukoddwa ukuba kukho ingozi yokuba umfaki-sicelo akafakanga sicelo ukuze angene kweli shishini kodwa ukuze afumane imali ngaphandle kokubandakanyeka ngokungqalileyo kwimisebenzi ephambili enxulumene nokusebenzisa naliphi na ilungelo elisenokunikezelwa. Ekuqinisekiseni enoba umfaki-sicelo ongumngenenli omtsha ubeka ingozi yokuba nguye nje ngegama, izinto anazo nokufikelela kwakhe ezimalini nezicwangciso zemali nezeshishini nokuzinikezela kwakhe kufanele kuqwalaselwe.

Abo baphathiswe igunya baya kubabekela ecaleni abafaki-zicelo nje ngegama abagqalwa njengabasetyenziswa ukuze kulungelwe abanye (*fronting*). Oku kwenzeka xa kufakwa isicelo egameni labanye ngenjongo yokukatyisa injongo yomgaqo-nkqubo. Umzekelo sisicelo esenziwe liqela elibonakala lenze iinguqu kubume baio iinjongo ikukuze iingenelo ezinkulu ziye kwiqela elingazezanga iinguqu okanye abantu ngabanye abangekho mnyama.

(b) Abanini-malungelo abadala

Kanjalo abaphathiswe igunya baya kubekela bucala abanini-malungelo abadala abangabo nje ngegama. Ngenxa yale njongo, abaphathiswe igunya baya kubagqala njengabanini-malungelo nje ngegama abanini-malungelo abadala abaneengxelo ezingentle okanye abangenazo kwaukuba nazo kuquka nokungatyali mali okanye ukungabandakanyeki eshishinini.

Kanjalo abo baphathiswe igunya baya kubabekela ecaleni abo bamela abanye yaye ukuze benze oku baya kusebenzisa umgaqo othi *K'* ukuze babone enoba injongo yomgaqo-nkqubo ikatyisiwe kusini na. Ngokomzekelo, abaphathiswe igunya baya kufuna ukubona enoba abanini-malungelo ababonakala bebutshintshile ubume babo babanikile ngenene na imali okanye enye into eluncedo abanini-zabelo okanye amalungu amnyama. Olu hlobo lokumela abanye aluyi kuwafumana amalungelo.

Ngokomgaqo, abo baphathiswe igunya abayi kubavumela abanini-malungelo abalithengisileyo okanye nangayiphi na indlela babekela bucala ilungelo lokuba ukuba baphinde bangene kwelo shishini lokuloba ngegama elahlukileyo.

(c) Ku-Cluster C no-D

Ku-Cluster C no-D, amaqela amakhulu ezicelo ezifanayo okanye eziyelelene kakhulu naxhaswa ngamanye amaqela, aya kubekelwa bucala njengabanini-malungelo nje ngegama. Ngokuqhelekileyo, akuyi kukhutshwa ilungelo elingaphezu kwelinye kwindlu nganye. Kula macandelo, abafaki-zicelo kuya kufuneka bachaze indlela abahlobene ngayo nabanye abafaki-zicelo kwelo candela. Ukuba ngamalungu angaphezu kwelinye emzini afaka isicelo selungelo, zonke izicelo zaloo mzi zisenokubekelwa bucala, ngaphandle kokuba abafaki-zicelo babonisa ngokucacileyo nangokukholisayo ukuba banamashishinana abo abawasekileyo yaye bahlukene.

(d) Abanini malungelo bexesha elizayo

Emva kwenkqubo yokwabiwa kwamalungelo kwexesha elide, iSebe liya kuzama ukuwarhoxisa amalungelo abo bawaphethe nje ngegama ngokusebenzisa igatya 28 le-MLRA. Ngokomgaqo, iSebe liya kuwatshitshisa amalungelo abathabathi-nxaxheba abasileleyo ukulisebenzisa ngempumelelo elo lungelo.

7.10 Ukongezwa kwexabiso

Ukongezwa kwexabiso kuthetha loo misebenzi yenza ishishini lokuloba libe nengeniso, kungakhathalisekienoba elo xabiso lifikelelwa kwintengiso yaseMzantsi Afrika okanye kumazwe ngamazwe. Ukongezwa kwexabiso kusenokukuzisela amaqithi-qithi ngenxa yokuba, phakathi kwezinye izinto, kudala izithuba zemisebenzi nobutyebi.

7.11 Uphuhliso lwamashishini

Ukuphuhlisa amashishini kubandakanya ukwandisa ubunini, isikhundla sokuphatha nezakhono zabamnyama kumashishini akhoyo namatsha, kuquka iinkqubo zokutyala izimali nokufikelela ezimalini. Le milinganiselo isenokuthetha ukufumana amaqithi-qithi ukuba nje ayenziwa ngelinge lokukatyisa ukukhuselwa ngokomthetho kwabasebenzi okuqulethwe kwimithetho yezemisebenzi, yempilo neyokhuseleko.

7.12 Ukudalwa kwemisebenzi

Injongo ebalulekileyo yokwabiwa kwamalungelo kwexesha elide kukudala imeko-bume enegalelo ekudalweni kwemisebenzi, ngokukhethekileyo, ukudalwa kwemisebenzi ehlala ixesha elide nesemgangathweni ngakumbi kwimveliso yokuloba.

Imisebenzi ebonelelweyo ngabo basele bengabanini-malungelo, ikakhulu ukonyuswa kwemisebenzi ngenxa yokunikezwa kwamalungelo okuloba ixesha eliphakathi, kuya kuba namaqithi-qithi, ubuncinane ku-cluster A no-B. Ukudala ingqesho ehlala ihleli kuyakhetheka kunokudala ingqesho ngamaxesha athile onyaka nokudala ingxeko ngamaxesha athile kuyakhetheka kunengqesho ngokwesivumelwano (*contract employment*)

7.13 Ukuxhomekeka nokuthatha inxaxheba ngaphakathi

Eyona njongo yokunikezwa kwamalungelo kumashishini okuloba aku Cluster C naku Cluster D kukubangela abantu abazimeleyo ukuba baseke amashishini orhwebo amancinci kunye nemisebenzi esisigxina yabo. . Ke ngoko kuya kuba yimfuneko kuninzi lwamashishini okuloba aku Cluster C naku Cluster D ukuba umceli abe nokuthenjwa ngokwasezimalini kwingeniso eyenziwa leli shishini lokuloba. Kuya kuba yimfuneko ukuba abe uthabatha inxaxheba ngokwakhe ekulobeni ezo ntlanzi. Ngokungakumbi, ukuthabath' inxaxheba ngaphakathi kuya kuba yimfuneko kumnini-lungelo kuninzi lwamashishini okuloba aku Cluster C naku Cluster D. Ngabaceli abangenakukwazi ngenxa yokuba neziphene emzimbeni okusisigxina kuphela abaya kuyekwa ekuthatheni inxaxheba ngokunokwabo.

Abasele bengabanini-malungelo baya kufuneka babonise ubungqina bokuba bangabanokuthenjwa ngendlela yeenkcazo-mali neefomu zerhafu. Absenokuba ngabangeneli abatsha baya kufuneka banike ubungqina bokuthenjwa ngokubonisa imbali yokubandakanyeka kwabo kwicandelo abafake isicelo kulo okanye ukubandakanyeka kwabo kwishishini leentlanzi.

7.14 Uphuhliso loqoqosho lwasekhaya kunye neziqwalaselo zezomthetho welizwe

Abaphathiswe igunya basenokukhupha amaqithi-qithi ngokubanjiswa kweentlanzi kumachweba okuloba angekho kwimimandla yeedolophu ngenjongo yokukhuthaza uphuhliso loqoqosho lwengingqi, nangona kungenakwenzeka ukufikelela le njongo kuwo onke amacandelo. Ukuze kuqinisekise ukuba yonke imimandla ekwindawo eneentlanzi

inesabelo kobu buncwane, abaphathiswe igunya basenokujonga indawo ekubanjiselwa kuyo njengezinto ezinika amanqaku angakumbi. Ukongezelela iSebe lisenokuqulunqa imigaqo-nkqubo nenkqubo yokuyekelela kwiirhafu ezithile ukuze kukhuthazwe abanini-malungelo ukuba bavelise imveliso yabo yeentlanzi kumachweba atsala nzima ngokoqoqosho.

7.15 Imikhumbi neenzame zokuloba

(a) *Mikhumbi*

Ukuba oku kuyasebenza kwelo candela, bonke abafaki-zicelo kuya kufuneka babonise ukuba banelungelo lokusebenzisa inqanawa ekulungeleyo ukubambisa eso sixa okanye izixa ezo zaloo ntlanzi. Zonke iinqanawa kuya kufuneka zibhaliswe eSebeni ukuze zityunjelwe ukubambisa iintlanzi.

Inqanawa efanelekileyo iya kuchazwa kumgaqo-nkqubo ngamnye weshishini lokuloba, kodwa ubuncinane iimfuneko zokufaneleka iya kuba zezi:

- ☐ Ibe neflegi yoMzantsi Afrika (ngaphandle kokuba kuchaziwe kumgaqo-nkqubo wecandelo elo);
- ☐ Ngaphandle kokuba inikwe imvume yokwahluka, ifakelwe ubugcisa obamkelekileyo nobusebenzayo bokugcina umzila wenqanawa ("VMS");
- ☐ Ibhalisiwe yi-South African Maritime Safety Association njengekufanelekeleyo ukuloba; yaye
- ☐ Ayidweliswanga kulo naluphi na uluhlu lwe-RFMO lwezingafanelekanga.

ISebe liya kufuna bonke abafaki-zicelo zamalungelo eshishini lokuloba ukuba basebenzise inqanawa etyunjiweyo ukubambisa ubuncwane. Ukutshintshwa kwenqanawa kuya kuvunyelwa kuphela kwiimeko ezifanelekileyo.

(b) *Linzame zokuloba*

UMphathiswa neSebe unembopheleleko yokulondoloza ubuncwane bezinto eziphila elwandle ngokutsho kwe-MLRA nokusebenzisa amanyathelo obulumko ngokubhekisele ekulawuleni nasekusebenziseni obu buncwane. Inkalo eyintloko ekulawuleni nasekulondolozeni ubuncwane baselwandle kukuwasikela umda amaphulo okuloba ukuze kuqinisekiswa ukuba ubuncwane obunjalo busetyenziswa ngokupheleleyo..

Ngokuqhelekileyo iSebe lichasene nako nakuphi na ukunyuswa ngakumbi kweenzame zeenqanawa. Ukugqithisela komyinge weenqanawa yenye yezinto ezisongela iintlanzi eMzantsi Afrika. Kawkhona kubeka uxanduva olungakumbi eSebeni, kokubini ekulandeleleni nasekunyanzeliseni ukuthotyelwa nokulawula kokusetyenziswa kobuncwane. Phantsi kwemigaqo-nkqubo engqamene namashishini okuloba athile, kukhuthazwa ukudibana okanye ukusebenzisa iinqanawa kumacandelo awahlukahlukeneyo, ekubeni oku kuya kukhokelela ekusetyenzisweni ngempumelelo nangokufaneleke ngakumbi kweenqanawa kulo lonke elo xesha.

Kwelinye icala, kuyaqondakala ukuba iinqanawa ezindala zimele zithatyathelw' indawo zezintsha, ngezizathu zokhuseleko. Ukwenziwa kweenqanawa zibe zezala maxesha kuya kuphumela ekunyukeni komthamo wokubambisa. Apho kuyimfuneko, kuya kumiswa imida yeenzame ukuze kuthintelwe amaphulo.

7.16 Ukhuseleko kwabasebenzi noomatiloshe

Abafaki-zicelo kuya kufuneka babonise ukuba baye bavumelana neemfuneko ezingummiselo zomthetho i-South African Maritime Safety Authority Act 5 ka-1998 nemimiselo ephasiswe ngokomthetho i-Merchant Shipping Act, 57 of 1951.

Ukongezelela, abafaki-zicelo kuya kufuneka babonise ukuba bayayithobela i-Compensation for Occupational Injuries and Diseases Act, Act 130 ka-1993. kwakhona abafaki-zicelo bakhunjuzwa ngomqathango weSebe wokuba iinkampani kufuneka zibe nemigaqo-nkqubo kaGawulayo nentsholongwane yakhe (HIV/AIDS) yaye kusenokufuneka ezi zihambe nezicelo zika-2005.

7.17 Ukuncitshiswa kokuBanjiswa ngengozi namaNyathelo okucuthwa nokulahla

Ukuncitshiswa nokupheliswa kokungasetyenziswa kakuhle nokubanjiswa kweentlanzi ezincinane kuqwalaselwa ngokubalulekileyo. Ngenxa yoko abo baphathiswe igunya basenokunikela ingqalelo kwimilinganiselo eyenziweyo necetyiweyo yokulwa nolu banjiso. Kwezinye iimeko zokuloba ukubanjiswa ngengozi akunakuphepheka yaye yinxalenye eyamkelekileyo yokubanjiswa okufuna iinkqubo ezifanelekileyo zokulawulwa kwako. ISebe liya kuqhubeka nokuvelisa imigaqo-nkqubo eqinisekisa ukuvavanywa okuphucukileyo nokulawulwa kwezo ntlobo zeentlanzi zibanjiswa ngengozi.

ISebe likwiphulo lokuvelisa icebo elibanzi lokulawula emayelana nokubambisa ngengozi. Ekuzameni ukubonakalisa ukulunga kwezixhobo zokunciphisa nokucutha ubambiso ngengozi, iSebe liyakujonga ukufaneleka kwazo kushishino lokuloba liqwalasela ubunjani beshishini elo, ixabiso lokusebenzisa nasiphina isixhobo okanye icebo lokunciphisa; izithelekiso zokufundwe apha ekhaya nakumazwe aphesheya; namagalelo abalobi basekhaya kunye nendima yabo ekuveliseni amacebo lawo (apho angena khona).

ISebe likhuthaza amanyathelo okucutha izenzo zokubambisa ngengozi kweentaka zolwandle, ookrebe, izilwanyana zaselwandle, iintlanzi ezisakhulayo nezinye iintlobo zezilwanyana zaselwandle ezisemngciphekweni okanye ezingakhuselekanga. UMzantsi Afrika uvelise i National Plan of Action (i NPOA) yokucutha izenzo zokubanjiswa ngengozi kweentaka zolwandle kwakunye ne NPOA yokucutha izenzo zokubanjiswa ngengozi kweentlobo ezithile zookrebe. Kule nkalo, iSebe lizakucela ngamandla amacandelo ahlukileyo kushishino lokuloba ukuba asebenzise izixhobo zokunciphisa ezinjenge- tori-line, (ukucutha ukubanjiswa ngengozi kweentaka ngabaloba ngemitya emide), izixhobo zokuphepha okanye zokukhupha kumacandelo okuloba emazantsi olwandle (ukuphetshwa kweentlanzi ezisakhulayo nezilwanyana zolwandle ukuba kunakho) kwakunye nemilinganiselo yeenethi ezithile ukunqanda ukuvalalaka kweentlanzi ezisakhulayo kwiinethi ezirhuqwayo. Ukongeza, iSebe liyazihlaba ngamandla izenzo zokuhluzwa okuphezulu nokulahlwa kweentlanzi kunye nokuchongwa ngabom kweendidi zentlanzi ezibanjiswa

ngengozi. ISebe liyakuqwalasela ngakumbi ukuvalwa kwexeshana nokweendawo, apho kubonakala kudingeka ukukhuselwa kwezitokhwe ezisaqanduselayo kwanokukhuselwa kweendawo zokukhuliswa kweentlanzi.

7.18 Izenzo zokugcineka kobume bendalo

Abo baphathiswe igunya basenokukhupha amaqithi-qithi ngaloo mashishini okuloba anegalelo, yaye afaka imali okanye axhasa uphando olwenziwayo, kwiindlela zokugcineka kobume bendalo. Ngokukhethekileyo, iSebe liphawule le miba ilandelayo njengefuna ingqalelo:

- ☐ Ukungenisa iindlela zokunciphisa ukusetyenziswa kwamandla namafutha enqwelo kwiifektri neenqanawa;
- ☐ Ukuncitshiswa kokubanjiswa-ngengozi nokufa kweentaka;
- ☐ Ukuncitshiswa kongcoliseko kokukhanya; kunye
- ☐ Ukunciphisa ifuthe elibi lokungcoliswa kweelwandle.

7.19 Amashishini okuloba ngezithiyelo

Abo baphathiswe igunya abayi kunikezela ngamalungelo oshishino ngenjongo yokuloba ngezithiyelo. Ekuphela komahluko kulo mgaqo-nkqubo kuya kuba kwicandelo le-white mussel, elisaphuhlisa intengiso enemveliso eyenzelwe ukudliwa ngabantu.

ICANDELO D: IINGQWALASELA EZIXANANAZILEYO ZOMGAQO-NKQUBO EKUNIKEZELWENI KOMYINGE OKANYE UMZAMO

8. Iingqwalasela Zomgaqo-nkqubo

Ngokuqhelekileyo, izigqibo zemiyinge zithathwa ngokwahlukileyo nangokuzimeleyo kwinkqubo yokunikezwa kwamalungelo, nangona zihlobene ekuboneni abafaki-zicelo abaphumeleleyo. Iingqwalasela ezisebenza ekunikezelweni kwamalungelo zisebenza kwizigqibo zomyinge ngokubanzi. Kule nxalenye yomgaqo-nkqubo, kwandlalwe iingqwalasela ezingakumbi ezisebenza kwizigqibo zemiyinge. Iingqwalasela zomgaqo-nkqubo wokunikezelwa kweenzame kuthethwa ngazo kwimigaqo-nkqubo engqamene namacandelo.

8.1 Ii-Cluster A no-B

Ukwabiwa kwemiyinge ku-Cluster A no-B kuthethwe ngako kwimigaqo-nkqubo engqamene namacandelo. Kwamanye amacandelo, inkqubo yokwaba imiyinge iya kuba ngumbandela ekuza kuboniswana ngawo ngakumbi, zakuba nje izicelo zecandelo ziqwalaselwe baza bafunyanwa nabafaki-zicelo abaphumeleleyo. Kuxhomekeka kwiziphumo zoku kubonisana, kuya kusetyenziswa le migaqo ilandelayo ekwabiweni kwemiyinge:

Okokuqala, umyinge uya kunikezelwa ngokwesabelo somfaki-sicelo sowe-2005. Lowo uphathiswe igunya kumisela isixa esincinane esiya kwabelwa abangeneli abatsha, lowo ngokomgaqo ungayi kuba ngaphantsi kowona mlinganiselo uphantsi onikezelwe umfaki-sicelo ophumeleleyo onelungelo lexesha eliphakathi.

Okwesibini, ngenxa yokuba iyinkqubo karhulumente ukuxhasa amashishini amancinane nenkqubo yokufunjathiswa kwabamnyama kwezoqoqosho exananazileyo, uMphathiswa walathisa abo abaphathise igunya ukuba bacinge badlulisele ubuncinane isixa esiya-10% se-TAC kumashishini amancinane, aya kuquka abangeneli abatsha nabanini malungelo bexesha eliphakathi. Ekuqwalaseleni ukwabelwa kwamashishini amancinane, abo baphathiswe igunya bamele baqwalasele uhlobo lweshishini lokuloba neqondo leenguqu. Kumashishini enze iinguqu ngokwanelelyo namela amashishini amancinane, kusenokungabi yomfuneka ukwabiwa kwakhona. Kumashishini okuloba eemali ezinkulu yaye ngenxa yoko engakulungelanga ukuphuhlisa amashishini amancinane, abo baphathiswe igunya bamele bazame ukwabela ubuncinane i-10% ye-TAC kwabo banini malungelo ngaphambili abebesabelwa kancinane kodwa aye enza iinguqu yaye aqhube kakuhle.

Okwesithathu, yaye ukongezelela kule migaqo mibini ingasentla, lowo uphathiswe igunya usenokunikezela umyinge osekelwe kumgaqo oyilelwe ukufikelela iinjongo ezichaze kwimigaqo-nkqubo eyahlukeneyo yamacandelo, njengeenguqu nokusebenza. Le migaqo imele iqulunqwe ngendlela yokuba iqinisekise ukuba bonke abafaki-zicelo abaphumeleleyo, enoba bangakanani na, baya kukwazi ukungenelwa ukuba bayahlangabezana nale migaqo.

8.2 Ku-Cluster C no-D

Abafaki zicelo abaphumeleleyo ku-Cluster C no-D baya kwabelwa isixa esiqingqiweyo esifumanekayo se-TAC okanye i-TAE. Akuyomfuneko ukuba esi sixa silingane kwicandelo ngalinye okanye i-TURF.

8.3 Umyinge oshiyeke emva kwezibheni

Umyinge oshiyeke emva kwezibheni uya kuchakwa ngokulinganayo.

8.4 Ukonyuswa kwe TAC/iTAE

Ukonyuswa kwe-TAC okanye i-TAE kuya kuchakwa ngokwezibonelelo ezisebenzayo ze-MLRA.

ICANDELO E: OKUYA KUQWALASELWA EMVA KOKUNIKEZWA KWAMALUNGelo

Kweli icandelo, iqela lezinto eziya kuqwalaselwa emva kokunikezwa kwamalungelo kuhoywa jikelele. Nangona le migaqo-nkqubo ingayi kusetyenziswa ngqo kwinkqubo yokunikezwa kwamalungelo exesha elide, kuyafuneka ukuba

ziqukwe kulomgaqo-nkqubo jikelele ukuze kwaziswe abasenokufaka izicelo ngeenjongo zeSebe emva kokuba inkqubo yokunikezwa amalungelo igqithile.

9. Uncediswano-ngolawulo lwamashishini okurhweba ngokuloba

ISebe lithe chu ukuzisa inguqu kulawulo nokuphathwa kwamashishini okurhweba ngokuloba eMzantsi Afrika, ngokusondela kwindlela yokuncedisana ngolawulo lwala mashishini okuloba kunye nabanini-malungelo, uluntu olulobayo kunye nabanye abathathi nxaxheba abachaphazelekayo

Ngokwale ndlela, ulawulo lwamashishini okurhweba ngokuloba akulelanga kuphela kwiSebe.. Uxanduva luyakwabelwa abanini-malungelo, ze apho kunakho ukwenzeka, noluntu lwasemanxwemeni oluxhomekeke kwimisebenzi yorhwebo ukufumana imivuzo nokuphila kwabo Indlela eyodwa yokusetyenziswa kwale ndlela, iTURF (Territorial User Rights Fishery) yaziswa kushishino lokuloba i- abalone kwaye iSebe lisaqwalasela ukusetyenziswa kwale ndlela inye kwamanye alamashishini, anjenge Handline Hake, iWest Coast Rock Lobster (Ngaselunxwemeni), ii- Oysters, iWhite Mussels kunye neNetfishing.

Kumashishini okuloba amakhulu ngakumbi, iSebe liyakukhangela iindlela zokusondelana zobudlelwane bokusebenza kunye neembumba zorhwebo ezaziwayo ukukhulisa amaqondo otyalo-zimali kuphando-nzulu, ukulawulwa nokuthobela.

Ukulungiselela uncediswano kulawulo, ii **Management Working Groups** ezingqamene neshishini okuloba ngalinye ziye zasekwa kuninzi lwamacandelo okuloba. Iimbumba zorhwebo ezohlukeneyo, imibutho neemanyano ezimele abanini-malungelo zimelwe kwezi Working Groups. Umsebenzi we Management Working Groups kukuxoxa yonke imicimbi emalunga nokulawulwa kobutyebi bendalo obuthile, kuquka imiqathango yemvume, amaxesha onyaka avaliweyo, iingingqi ezinezithintelo, ukusekwa nokulungiswa kwamacebo okulawula amacandelo, ukuthobela kunye nezithintelo zeenqanawa. Ngokunokwamashishini okurhweba ngokuloba amakhudlwana, iSebe lijonge kwakhona ukwabelana ngezibophelelo zophando lwenzululwazi nezebhayoloji zezitokhwe zentlanzi kunye nefuthe elenziwa kukuloba namacandelo ngokusebenzisa iiWorking Groups okanye ezinye iindlela zokwenza oko .

Icandelo 8. (1) Ie MLRA lichaza ukuba "uMphathiswa, ngokufaka isaziso kwi *Gazette*, usenokusa iso nayiphina imbumba yorhwebo okanye iqela elinomdla kwisebe loshishino lokurhweba ngokuloba, ngokwezimvo zoMphathiswa, elingabameli besebe okanye iqela elo" iSebe lijonge ukusebenzisa eli candelo lomthetho ukulungisa ubudlelwane balo lomsebenzi kunye noshishino lokuloba. ISiyilo soMgaqo-Nkqubo malunga nee Recognised Industrial Bodies (*RIB's*), equlethe inkqubo yokulinganisa ukwaziwa izakukhutshelwa izimvo zoluntu, nagphambi kokuba umgaqo-nkqubo wamkelwe. Kwiindawo ekukho kuzo la maqumrhu, iSebe lisenokukhetha ukunxibelelana nabanini-malungelo lisebenzisa la maqumrhu avunyiweyo kuphela.

10. Iirhafu nokubuyiswa kweendleko

Iirhafu yimali esisigxina ebhatalwa ngabanini-malungelo orhwebo ngokuloba ngomlinganiselo omnye wentlanzi eziswa emhlabeni kwaye ke ngoko ayadibana nexabiso leentlanzi eziziswa emhlabeni. Iirhafu okwangoku zisabizwa ngokommiselo wecandelo 29 le-Sea Fishery Act 12 ka-1988.

Ngokwangoku ingeniso efunyanwa ngezirhafu isetyenziswa ukubuyisela ezinye zeendleko elithi iSebe lingene kuzo ekulawuleni obu butyebi bendalo (kuquka nendleko zokuthobela nezophando). Emva kwenkqubo yokunikezelwa, iSebe liya kuphanda uku ukubanakho ukwaziswa kwenkqubo yokuhlawula kwangaphambili iirhafu okanye ukuhlawula ngezavenge ngenyanga ngokobuncinane be Total Allowable Catch enikiweyo (yaze ayeziswa mhlabeni). ISebe likwameme iziphakamiso zokwazisa inkqubo yokubuyisela iindleko epheleleyo yokulawula amashishini orhwebo ngokuloba.

11. Inkqubo yabakhi-mkhanyo

Inkqubo ekhoyo yabakhi-mkhanyo yeSebe ijongise kwinkqubo yokugada nokuchaza ngaphakathi enqanaweni naselunxwemeni. ISebe lizimisele ukwandisa le nkqubo ibandakanye iindawana zokugadwa kokuthobela nokuchaza nokwandisa le nkqubo yokwakha umkhanyo ifikelele kumashishini amaninzi kangangoko kunokwenzeka. Kwakhona iSebe lizimisele ukungenisa iindlela ezintsha zokuqinisekisa ukuthotyelwa njengeekhamera ezisenqanaweni. Abanini-malungelo kuya kulindeleka ukuba bagubungele iindleko ezinxulumene nokulawula nokungeniswa kweenkqubo zokwakhel' umkhanyo inkqubo.

12. Ukugqithiswa kwamalungelo okurhweba ngokuloba

Izicelo zokugqithiswa kwamalungelo okurhweba ngokuloba zihoywa ngokommiselo wecandelo 21(2) le MLRA othi amalungelo okuloba asengagqithiswa kodwa ngemvume nemiqathango esenokubekwa nguMphathiswa okanye umthunywa wakhe.

Ukuba amalungu kakopoletyeni okanye abo banezabelo enkampanini bathengisa inxalenye okanye zonke izilangazelelo zabo okanye izabelo, ilungelo lokuloba lihlala ilelequmrhu elisemthethweni, yaye akunyanzelekanga ukuba kufunyanwe imvume yokugqithisela elo lungelo. Noko ke, nakuphi na ukudluliselwa kwezabelo okanye ubulungu okuphumela ekubeni kutshintshe ulawulo kulowo unelo lungelo, kufuneka imvume. Oku kwenzelwa ukuthintelwa ukukatyisa icandelo 21(2) le-MLRA. Kwimeko yenkampani kawonke wonke enezabelo, ukuthengiswa kwezabelo ezingaphezu kwama-35% kufuna imvume. Ukuba umnini-lungelo ngumntu omnye, isicelo sokudluliselwa asenziwa kuphela xa iseluzimiselo ukuthengisa ilungelo, kodwa kwanaxa umnini-lungelo esifa yaye umabi-lifa enqwenela ukudlulisela elo lungelo komnye umntu.

Umgqo-nkqubo osebenzayo ngoku ngokubhekisele ekudluliseleni kwamalungelo okuloba uchazwe kwi-Government Notice 1771 ye- 27 July 2001. Lo mgqo-nkqubo uza kusebenza de uthatyatheliw' idanwo okanye uguqulwe emva kokwabiwa kwamalungelo kwexesha elide. Kuye kwaqwalaselwa ezi nkalo zilandelayo xa kujongwa isicelo sokudlulisa ilungelo lokuloba:

- ☐ Ngokusweleka, ukutshona, ukuthengiswa kweshishini okanye ukuthinjwa kweshishini lomnini-lungelo.
- ☐ Ukubhekisela phambili utshintsho.
- ☐ Ukukhuthaza ukunyuswa kwenani labo banamalungelo okanye umyinge kwishishini leentlanzi.

Emva kokunikezelwa kwamalungelo exesha elide, kusenokuvulwa inyoba yokuba, ukuze kwandiswe iinguqu nokuqinisa amashishini, kuvunyelwe abangeneli abatsha yaye abo banamalungelo basenokuvunyelwa ukuba badibane nabanye.

13. Ukusetyenziswa kwezithuthi kwingingqi yonxweme

Abanini-malungelo abanqwenela ukusebenzisa isithuthi kwingingqi yonxweme ukuze benze ngempumelelo imisebenzi yokuloba kufanele bafake izicelo zemvume kwiMithetho yeccandelo labo. Abanini-malungelo bacetyiswa ukba baqaphele iGuidelines on the Implementation of Regulations Pertaining to the Control of Vehicles in the Coastal Zone: 2004. Zombini iiRegulations neeGuidelines ziyafumaneka kwiSebe (Chief Directorate: Fisheries Compliance) okanye e www.mcm-deat.gov.za. Intlawulo ye R500 iyafuneka kwaye imvume iya kukhutshwa njengesebenzayo ngelixesha libekelwe amalungelo okurhweba ngokuloba.

14. Iingingqi zolwandle ezikhuselweyo kunye neengingqi zolawulo lwamashishini

14.1 Iingingqi zolwandle ezikhuselweyo

ISebe lijonga iingingqi zolwandle ezikhuselweyo njengendawo ebalulekileyo yokubalekela kwezitokhwe zeentlanzi eziphantsi koxinzelelo. Okwangoku ezi zitokhwe zentlanzi zibandakanya ngaphezulu kwe 50 yeendidi zelinefish ne-abalone. Iingingqi zolwandle ezikhuselweyo zikwaziwa njengesixhobo esibalulekileyo sokucutha ukuloba okkungekho mthethweni, okungachazwayo nokungalawulwayo.

Umphathiswa ukhethe iqela leengingqi zolwandle ezikhuselweyo, ezikhusela malunga ne 20% yonxweme loMzantsi Afrika. Kuhlali kuyinjongo yoMphathiswa neSebe ukonyusa ubungakanani beengingqi zolwandle ezikhuselweyo ekulobeni ukusukela kwi-1% ekhoyo ngoku, ukuya kwi-20% esekwe ngamazwe aphesheya engagqithanga owe-2015.

14.2 lingingqi zolawulo lwamashishini okuloba

Icandelo 15 le-Marine Living Resources Act lenza isibonelelo sokubhengezwa kweengingqi zolawulo lwamashishini okuloba ukulungiselela ulondolozo ulawulo nokuphuhliswa kweshishini okuloba. Ukubhengezwa kweengingqi zolawulo lwamashishini okuloba ikwasisixhobo esinokusetyenziswa, ukongezelelwa kwiimo zikaxakeka, ezibonelelwe kwicandelo 16 nemimandla elungiselelwe kwicandelo 17, ukulawule bhetele amashishini okuloba nokunciphisa ukungevani phakathi kwabo bazisebenzisayo.

15. Ukuthobela nezilumkiso zeCandelo 28

Isebe lityale kwizixhobo zokujonga, zokulawula nokugada, kuquka nezixokelelwano zakutshanje zokugadwa kweenqanawa. Isebe likwafumene iinkonzo zeencutshe ekuphengululeni iincwadi nabatshutshisi abakhethekileyo kushishino okuloba.

Ngokuqhubekayo iSebe liza kujolisa ekuthinteleni ukwaphulwa komthetho nokuziphatha. Oku kuya kuhambisana nokujongwa ngqongqo kwentsebenzo, ukuphengululwa kweencwadi okuthe gqolo, intsebenziswano nezinye ii-arhente zemithetho ezinjenge-South African Revenue Service ne-South African Bureau of Standards, nonyanzelo olungqongqo nangakumbi kwemvume, kubandakanya ukuxhonywa kwamalungelo ngokungqamene namagatya ecandelo 28 we MLRA. Isebe sele ligqibe iimemoranda ezininzi zokuqondana nee-arhente ezibalulekileyo zolawulo apha elizweni naphesheya, ukwabelana ngolwazi nokujonga ukuthengiswa nokuthengwa kweemveliso zentlanzi kwamanye amazwe.

ISebe liya kukhupha izaziso phantsi kweecandelo28(1) lomthetho lize lirhoxise, lisuse okanye lixhome amalungelo okuloba ngokuvisisana necandelo 28(4) kuzo zonke iimeko apho iSebe libona ukophulwa kwalo naliphi na igatya le MLRA, imimiselo yayo okanye imiqathango yemvume. Apho ilungelo okuloba belinikeziwe waze umnini-lungelo akakwazi ukubhatala imirhumo okanye irhafu ebiziweyo ngomthetho, iSebe aliya kuthandabuza ukukhupha isilumkiso phantsi kweecandelo 28 leMLRA.. Ukongezelela ekurhoxiseni amalungelo phantsi kweecandelo 28 leMLRA, iSebe liphanda iindlela zokunciphisa izibonelelo kwiimeko zokwaphulwa kwee MLRA.

INGCACISO YAMABINZANA

Ixesha lesicelo	lixesha lokuqalisa kokupapashwa kwezimemo zokufaka izicelo zelungelo lokushishina kwicandelo ukusa kumhla igunya lezibheni elithi ekugqibeleni lizinise izibheni kwicandelo elo.
Abamnyama	aba ngabaNtsundu, abeBala namaNdiya, ukuba nje loo mntu ngummi woMzantsi Afrika ngokokuzalwa okanye wafumana ilungelo lobumi phambi kowama-27 April 1994.
Codes of Good Practice	Yi-Draft BEE Codes of Good Practice epapashwe nguMphathiswa Wezorhwebo Namashishini ngowe-2004 ngokutsho kwe-Broad-Based Black Economic Empowerment Act 53 yowe-2003.
ISebe	liSebe leMicimbi YezeNdalo Nokhenketho: Icandelo leeLwandle Nokulawulwa Kwamanxweme.
Umnini-lungelo We-Medium Term	Ngumnini-lungelo owanikwa ilungelo lokushishini ngokuloba kwexesha eliphakathi phakathi kowe-2001/2002 – 2005 kwicandelo elithile, okanye waba nelungelo kwelo candelo ngokudluliselwa okwamkelekileyo kwelungelo lokuloba.
UMphathiswa	nguMphathiswa weMicimbi YezeNdalo Nokhenketho.
Umngeneli Omtsha	Ngumfaki-sicelo ongenalo ilungelo le-medium term kwicandelo elo afuna ukungena kulo.



UMNYANGO WEZEMVELO NEZOKUVAKASHA

INQUBOMGOMO EHLANGANISA KONKE NGOKWABIWA NOKUPHATHWA KWAMALUNGELO OKUDOBA EZENTENGISELWANO ESIKHATHI ESIDE: 2005

**LE NQUBOMGOMO KUMELWE IFUNDWE KANYE NENQUBO MGOMO YOKUDOBA EHAMBISANA NAYO
EQONDISWE KWABATHILE (etholakala engosini ye-Inthanethi ethi www.mcm-deat.gov.za)**

Le ncwadi iyatholakala nangesiBhunu, isiXhosa kanye nesiZulu
Hierdie document is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar
Lencwadi iyafumeneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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INGXENYE A: ISETHULO NESIZINDA

1. Isethulo

Le Nqubomgomo Ehlanganisa Konke Yokwabiwa Nokuphathwa Kwamalungelo Okudotshwa Kwezinhlanzi Esikhathi Eside Ngenjongo Yezentengiselwano ikhishwa nguNgqongqoshe Wezemvelo Nezokuvakasha futhi kuzobhekiselwa kuyo ngokuthi "Inqubomgomo Ehlanganisa Konke". Le Nqubomgomo Ehlanganisa Konke kumelwe ifundwe ngokuvumelana nezinqubomgomo okuzobhekiselwa kuzo njengezithi "Izinqubomgomo eziphathelene nezindawo zokudoba" noma "Izinqubomgomo eziqondene nemikhakha ethile" eziye zamukelwa emkhakheni ngamunye wezentengiselwano nezokucwaninga ngokudoba. Kule Nqubomgomo Ehlanganisa Bonke kudingidwa izindaba eziningana ezihlobene nayo yonke imikhakha yezokudoba ehlelwe esigabeni 2. Le nqubomgomo ewuhlaka olwethulwa ngokulandelana kwezigigaba iqinisa okuqukethwe yizinqubomgomo eziphathelene nokudotshwa kwezinhlanzi, ezethula izinhloso ezicacile zikaNgqongqoshe maqondana nokwabiwa kwamalungelo ezikhungweni zokudotshwa kwezinhlanzi. Abenzi bezicelo abasethubeni lokucatshangelwa kanye nabantu abanesithakazelo kufanele bafunde le Nqubomgomo Ehlanganisa Konke ngokuvumelana nenqubomgomo esebenzayo ephathelene nokudotshwa kwezinhlanzi.

2. Ukusebenza Kwayo

Le Nqubomgomo isebenza ekwabiweni kwamalungelo emikhakheni engu-19 yokudotshwa kwezinhlanzi ngenjongo yezentengiselwano. I-Hake Deep Sea Trawl, i-Hake Inshore Trawl, i-Horse Mackerel, i-Small Pelagics, Patagonian Toothfish, i-Rock Lobster yase-South Coast, i-Prawn Trawl yaKwaZulu-Natal, i-Hake Long Line, i-Rock Lobster yaseWest Coast (Ngaphandle Kogu), i-Squid, i-Tuna Handline, i-Seaweed, i-Shark Demersal, i-Handline Hake, i-Rock Lobster yaseWest Coast (Eduze Kogu), ama-Oyster, ama-White Mussel, Ezidotshwa ngenetha (i-Trek- namaGillnet kanye ne-Beach Seine) kanye ne-Beach Seine yakwa-Zulu Natal.

Le Nqubomgomo ayisebenzi kulokhu –

- ❑ Ukudoba ngenjongo yokuziphilisa. Kuzokwamukelwa inqubomgomo ehlukile edingida ngokukhethekile ukudoba ngenjongo yokuziphilisa, kuhlanganise nokudoba i-East Coast Rock Lobster kanye ne-Abalone kwelaseMpumalanga Kapa ngenjongo yokuziphilisa.
- ❑ Ukudoba ngenjongo yokuzijabulisa. Kuzokwamukelwa inqubomgomo ehlukile edingida ngokukhethekile ukudoba ngenjongo yokuzijabulisa.
- ❑ Ukudoba uhlobo olungavamile lwezinhlanzi (Foreign fishing).
- ❑ Izindawo zokulungiswa kwezinhlanzi. Inqubomgomo ehlukile izokwamukelwa edingatha ngokukhethekile izindawo zokulungiswa kwezinhlanzi.
- ❑ Ukuzalaniswa Kwezinhlanzi. Kuzokwamukelwa inqubomgomo ehlukile edingida ngokukhethekile ukulawulwa nokuphathwa kokuzalaniswa kwezinhlanzi (mariculture) eNingizimu Afrika.
- ❑ Imisebenzi engahloselwe ukudliwa nokuthengiswa kwezinhlanzi, kuhlanganise ukubukelwa kwemikhoma ngezikebhe, ukutshuza koshaka emakhejini, ukutshuza kwezemidlalo nokwe-SCUBA. Izinqubomgomo ezihlukile zizokwamukelwa

ezidingida ngokukhethekile le misebenzi engahlobene nokudotshwa kwezinhlanzi ngengongo yokuzidla noma ezentengiselwano.

- ❑ Ukudoba izinhlanzi Ngodobo Okungokwendabuko. Inqubomgomo ehlukile izokwamukelwa edingida ngokukhethekile Ukudoba izinhlanzi Ngodobo Okungokwendabuko.

Nakuba le nqubomgomo ingasebenzi ezinhlanzini ezinjenge-Hake Handline, i-West Coast Rock Lobster (eduze kogu), i-Netfish (i-Trek- nama-Gillnet, i-Beach Seine), i-Beach Seine yaKwazulu-Natal, imikhakha yama-Oyster ne-White Mussel, abenzi bezicelo kuleyo mikhakha bayacelwa ukuba bagxile kwinqubomgomo eqondene nokudotshwa kwezinhlanzi kokwethulwe ohlakeni okuzosetshenziswa ekwabiweni kwamalungelo. Kuyoba okudingekile ngabenzi bezicelo kule mikhakha ukuba bafunde izinqubomgomo eziphathelele nokudotshwa kwezinhlanzi ngaphambi kokuba benze izicelo.

3. Injongo

Le Nqubomgomo Ehlanganisa Konke kanye nezinye izinqubomgomo eziphathelele nokudotshwa kwezinhlanzi, ihloselwe ukuba isebenze njengesiqondiso senqubo yokwabiwa kwamalungelo kwesikhathi eside. Ichaza imisebenzi ewumgogodla yalo Mnyango esekela amalungelo enqubo yokwabiwa kwamalungelo. UNgqongqoshe ukubheka futhi njengokudingekile ngokwenzuzo yabenzi bezicelo ukubeka eminye yemigomo yabaphathi ezosebenza esikhathini esiseduze esisondelayo. UMnyango ungase uhlaziye le migomo ngezikhathi ezithile uma ufisa ukwenza kanjalo.

4. Isekelwephi le nqubo mgomo?

Izinqubomgomo Ezivamile neziphathelene nokudotshwa kwezinhlanzi zisekelwe ezibopweni ezingokomthetho zomhlaba wonke zaseNingizimu Afrika, izivumelwano ezingabophi zamazinga omhlaba wonke nawezifundazwe, kanye nohlaka lwesishayo-mthetho lokwabiwa kwamalungelo okudoba izinhlanzi.

4.1 Izibopho zomhlaba wonke ezimayelana nokusetshenziswa komthombo wamandla osimeme

Phakathi ne-*World Summit on Sustainable Development* ("WSSD") [Imbizo Yomhlaba Yentuthuko Esimeme], eyayibanjelwe eJohannesburg ngo-Septemba 2002, amazwe azibophezela ekulondolozeni noma ekubuyiseleni izinhlobo zezinhlanzi emazingeni angase alethe ukusimama okuphelele kwale mikhiqizo. Kuyaphuthuma kakhulu ukuba lo mgomo ufinyelele ngalezi zinhlobo ezisengcupheni yokuqothulwa, futhi uma kungenzeka kungakadluli unyaka ka-2015. Amazwe futhi azibophezela ukwakha nokusebenzisa amasu okwenza lokhu. I-WSSD yaveza isidingo sokulondoloza lo mkhiqizo nezinhlobo ngezinhlobo zezinhlanzi nezindawo ezisogwini, ngaphakathi nangalé kwemingcele yezifunda zikazwelonke. Inhloso yalokhu ukuvikela isimiso sezinto eziphilayo nendawo yazo ezungezile, kusetshenziswa indlela eyoyikhwebula imikhakha yokudoba eqotha imbokodo nesisekelo, yakhe izindawo ezivikelekile zezinhlanzi, iphoqelete futhi iqondise izikhathi zokuvala nokuvalwa kwezindawo ezithile ukuze kuvikelwe izindawo zokubekela nezinkathi zokuzalelwa kwamaqanda. Ngokuvumelana ne-*Reykjavik Declaration* ka-2001 kanye neSu Lokusetshenziswa Kwayo lase-Johannesburg elavezwa emhlanganweni we-WSSD, iNingizimu Afrika izibophezele ekwethuleni uhlelo olunjalo lokuphathwa kwe-Ecosystem Approach to Fisheries ("EAF") kungakadluli unyaka ka- 2010.

Umthetho Wango-1995 Wokudoba Ngomuzwa Wokukhathalela Imvelo Wezinhlangano Zokudla Nezolimo uyithuluzi lokuzithandela elikuqaphelayo ukuthi izindawo zokudoba, kuhlangukise nebhizinisi lokutshalwa kwezinhlanzi kuyimithombo ebaluleke kakhulu ehlinzeka ngokudla, imisebenzi, ezokungecebeleka, uhwebo, nenhlalakahle engokomnotho kubantu emhlabeni wonke, futhi ngaleyo ndlela kufanele iphathwe ngendlela ebonisa ukuyikhathalela. Lo Mthetho wethula izimiso nezindinganiso zomhlaba wonke zokuziphatha zemikhuba ebonisa ukukhathalela imvelo ngombono wokuqinisekisa ukulondolozwa kwemvelo okuphumelelayo, ukuphathwa nokuthuthukiswa kwemithombo yokuphila yasolwandle, ngenhlonipho efanele ngamaqembu ezinhlanzi eziphilayo nendawo yazo ezungezile kanye nezinhlobonhlobo zazo. Lo Mthetho uyakuqaphela ukubaluleka okungokomsoco, okungokomnotho, okungokwenhlalo, okungokwemvelo nokungokwempucuko kwezindawo zokudoba. Lo Mthetho uye waholela ekusungulweni kwamaSu Ezinyathelo Zomhlaba Wonke [International Plans of Action] ("IPOAs") amane. La ma-IPOA angama-IPOA aphilene Nobungako Besilinganiso Sezinhlanzi Ezidotshwayo; i-IPOA Yokuvimbela, Ukunqanda Nokuphelisa Ukudotshwa Kwezinhlanzi Okungekho Emthethweni, Okungabikwa Nokungalawulwa ("IUU Fishing"); ia-IPOA Okuncishiswa Kokubanjwa Koshaka Kungaqondiwe; kanye ne-IPOA Yokuncishiswa Kwezigameko Zokubanjwa Kwezinyoni Zasolwandle Kungaqondiwe. Njengengxeny yombuso, iNingizimu Afrika iye yazibophezela ukusebenzisa lo Mthetho, ama-IPOA amane, futhi uma kudingekile, ukuwaqinisa ngokulandela uhlelo lwamaSu Ezinyathelo Zikazwelonke. Emzameni wokusebenzisa i-IPOA Yokuvimbela, Ukunqanda Nokuphelisa Ukudotshwa Kwezinhlanzi Okungekho Emthethweni, Okungabikwa Nokungalawulwa, ukuqondiswa nokulawulwa kwezikebhe zokudoba kuzoqiniswa.

Isivumelwano SeNhlango Yezizwe Ngomthetho Wolwandle, ka-1982 ("UNCLOS") sihliselwe ukumisa umthetho ngezilwandle nezilwandlekazi zomhlaba ukuze kube khona ukuxhumana ngokuphathwa kwamanzi omhlaba wonke. Sikhuthaza futhi ukusetshenziswa ngokuthula kwezilwandle nezilwandlekazi zomhlaba, ukusetshenziswa ngokulinganayo nangendlela efanele komnotho wasolwandle, ukulondolozwa komnotho ophilayo ongokwemvelo wasolwandle kanye nokucwaningwa nokuvikelwa kwemvelo yasolwandle. **Isivumelwano SeNhlango Yezizwe Ngezinhlobo Zezinhlanzi Sango-1995** sisekela lesiya Sivumelwano ngokucacisa indlela izinhlanzi ezingahlali endaweni eyodwa (njenge-hake) kanye nezinhlanzi ezijikeleza umhlaba kakhulu (njengama-tuna) okumelwe zisetshenziswe futhi ziphathwe ngayo.

I-Ningizimu Afrika ibambe iqhaza futhi kuma-**Regional Fishery Management Organisations ("RFMO's")** [Izinhlangano Zokulawulwa Kwezinhlanzi Ezifundazweni] ezinomthwalo wokulawula nokulondolozwa izinhlobo zezinhlanzi ezihlanganyelwayo, njengama-tuna, ama-swordfish kanye ne-Patagonian toothfish. Lezi zihlanganisa i-International Commission for the Conservation of Atlantic Tunas ("ICCAT"), i-Commission for the Conservation of Southern Bluefin Tunas ("CCSBT"), i-Indian Ocean Tuna Commission ("IOTC") kanye ne-Convention for the Conservation of Antarctic Marine Living Resources ("CCAMLR"), i-South East Atlantic Fisheries Organisation ("SEAFO") kanye ne-Southwest Indian Ocean Fisheries Commission ("SWIOFC").

Njengengxeny le-Southern African Development Community ("SADC"), futhi nanjengengxeny eligunyazwe ukusayina kuyi-**SADC Protocol on Fisheries**, iNingizimu Afrika inesibopho sokuqinisekisa ukusetshenziswa okusimeme kohlobo lwezinhlanzi eluhlanganyela namanye amazwe kanye nomakhelwane bayo be-SADC. Lezi zinhlanzi ezihlanganyela namanye amazwe zibandakanya i-hake, ama-pelagic, ama-prawn, i-linefish kanye ne-horse mackerel.

4.2 Uhlaka lwesishaya-mthetho ngokwabiwa kwamalungelo okudoba izinhlanzi ngenjongo yezentengiselwano

Izinguquko embonini yokudotshwa kwezinhlanzi ziyisinyathelo esingenakugwenywa somthetho-sisekelo nesishaya-mthetho. Okuyisona sizathu esiyinhloko sokukhuthazwa kwezinguquko embonini yokudotshwa kwezinhlanzi yaseNingizimu Afrika nguMthetho 18 ka-1998 we-Marine Living Resources (the "MLRA"). Enye injongo ebalulekile ye-MLRA ukuhlinzeka ngezindlela ezihlelekile zokusetshenziswa kwezinhlanzi, kanye nokuhlinzeka ngezindlela zokulawulwa kokusetshenziswa kwengcebo ephilayo yasolwandle ngendlela engakhethi nelinganayo ukuze kuzuze zonke izakhamuzi zaseNingizimu Afrika. Ngokwemibandela yengxenywe 2 ye-MLRA, uNgqongqoshe nanoma yiliphi elinye ilungu bayocabangela injongo nezimiso ezihlelekile ezingana lapho besebenzisa noma yimaphi amandla ngaphansi kwalo Mthetho. Okuyilezi:

- (a) isidingo sokuba imvelo yasolwandle kanye nekhaya layo kusetshenziswe kangcono kakhulu nangendlela eyoletha ukusimama;
- (b) isidingo sokulondoloza imvelo yasolwandle ukuze kuzuze izizukulwane zamanje nezangesikhathi esizayo;
- (c) isidingo sokusebenzisa ukuqapha okukhulu kakhulu ekuphathweni nasekuthuthukisweni kwemvelo yasolwandle;
- (d) isidingo sokusebenzisa imvelo yasolwandle ukuze kufinyelelwe ukukhula ngokomnotho, ukuthuthukiswa kwezisebenzi, ukwanda ngaphakathi ezindaweni zokudoba izinhlanzi nasemagatsheni okuzalaniswa kwazo, ukwakhiwa kwamathuba emisebenzi nokulingana okunengqondo kokuhlobana kwale mvelo ephilayo nendawo yayo eyizungezile nemigomo yentuthuko kahulumeni kazwelonke;
- (e) isidingo sokuvikela yonke imvelo ephilayo nendawo yayo eyizungezile, kuhlangele nezinhlobo zezinhlanzi ezingadotshelwa ukusetshenziswa;
- (f) isidingo sokulondoloza izinhlobo ngezinhlobo zezinhlanzi engozini yokuba ziqothulwe;
- (g) isidingo sokunciphisa ukungcoliswa kwemvelo yasolwandle;
- (h) isidingo sokuba kubanjwe iqhaza eligcwele elihambisana nokuzidela enqubweni yokwenza izinqumo ehlinzekwe kulo Mthetho;
- (i) noma yisiphi isibopho sikahulumeni kazwelonke noma iRiphabhulikhi ngokwemibandela yanoma yisiphi isivumelwano somhlaba wonke noma umthetho osebenzayo obekelwe umhlaba wonke, kanye
- (j) nesidingo sokuhlela kabusha imboni yokudoba izinhlanzi ukuze kubhekwe nobandlululo olungokomlando futhi kufinyelelwe ukulingana ngaphakathi emagatsheni emboni yokudoba izinhlanzi.

Ukuze imvelo yasolwandle isetshenziselwe injongo yezentengiselwano, umuntu noma inhlangothi ethintekayo kufanele isebenzise futhi inikezwe ilungelo ngaphansi kwe-MLRA. Ingxenywe 18 ihlinzeka ngale ndlela elandelayo:

- (1) Akukho muntu okufanele adobe izinhlanzi ngenjongo yezentengiselwano noma ukudla, ahileleke ekufuyeni nasekuzalaniseni izinhlanzi noma ukuqhuba isikhungo sezinhlanzi ngaphandle kokuba imvume yokwenza kanjalo noma ukubamba iqhaza kuleso senzo noma ukuqhuba lesi sikhungo sezinhlanzi eyinikwe nguNgqongqoshe.

Ukwabiwa kwamalungelo kuye kwaba yithuluzi eliyinhloko lokuletha izinguquko nokwenza ukuba izimiso nemigomo okwethulwe engxenyeni 2 ye-MLRA kube negalelo elisebenzayo. Ukuze kusetshenziswe ilungelo elinikezwe ngaphansi kwengxenywe 18, umuntu kufanele anikezwe imvume (permit) ngaphansi kwengxenywe 13 ye-MLRA, ehlinzeka ngalokhu okulandelayo:

(1) *Akekho umuntu okufanele asebenzise noma yiliphi ilungelo ngokwemibandela yengxenywe 18 noma enze noma yimuphi omunye umsebenzi ngokwemibandela yalo Mithetho ngaphandle kokuba lowo muntu ethole imvume kuNgqongqoshe yokuba asebenzise lelo lungelo noma enze lowo msebenzi.*

Ngaphandle kwe-MLRA, Imithetho Ethinta Bonke (General Regulations), emenyezwe kuyi-GN 111 kuSomqulu KaHulumeni 19205 wango-Septemba 1998 (njengoba wachitshiyelwa) iyahambisana nalokhu. Le mithetho iqukethe izinqubo ezithile eziphathelele nezikhalazo ngezinqumo ezenziwe ngaphansi kwengxenywe 13 no-18 yalo Mithetho, futhi umthetho wezinkathi zonyaka okuvaliwe ngazo, nezindawo ezivaliwe okungamelwe kudotshwe kuzo, ukusetshenziswa kwamathuluzi okudoba nemingcele ebekiwe ngokudotshwa kwezinhlobo ezithile zezinhlanzi. Le Mithetho iphinde idingide udaba lwezindawo zokwehliswa kwezinhlanzi, ukuthuthwa kwazo, ukwamukelwa kwazo, ukulungisa nokuthengisa izinhlanzi nemikhiqizo yezinhlanzi, ukuhlonipha imithetho ebekiwe, ukushiya izinto olwandle, imithetho yemitata yokudoba kanye namacala nokuhlawuliswa.

I-MLRA kanye neMithetho yayo yachazwa ezinqumweni eziningi zezinkantolo maqondana nezinqubo zokwabiwa kwamalungelo zesikhathi eside, ezinye zibeka izimfuneko zokulandelwa kwemithetho eyabekwa ngaphambilini. Lezi zinqumo zacatshangelwa lapho kuklanywa inqubo yokwabiwa kwamalungelo esikhathi eside.

Umithetho 107 ka-1998 we-National Environmental Management ("NEMA") uhlinzeka ngohlaka lokwamukelwa kokuphathwa kwemvelo nenqubomgomo. Ngokwezinga isinyathelo selungu lombuso esithonya ngayo ngalo ngokuphawulekayo imvelo, izimiso ezethulwe engxenyeni 2 yeNema zisebenza ngokufanayo.

5. Imisebenzi YoMnyango Nokuphathisa Abanye Izikhundla

5.1 Ukuphathisa Abanye Amagunya

I-MLRA ithwesa uNgqongqoshe Wezemvelo Nezokuvakasha ("uNgqongqoshe") amagunya kanye noMqondisi-Jikelele. Esikhathini esidlule, uNgqongqoshe kanye noMqondisi-Jikelele baye bathwesa ezinye izikhulu amagunya abo amaningi kulo Mnyango, kuhlenganise namagunya angaphansi kwengxenywe 13 (ukukhishwa kwezimvume), ingxenywe 18 (ukukhishwa kwamalungelo okudoba izinhlanzi ngenjongo yezentengiselwano), ingxenywe 28 (ukusula, ukuhoxisa noma ukuphucwa amalungelo/izimvume zokudoba okwesikhathi esijana), ingxenywe 81 (ukukhishwa nokusulwa kokukhululwa ezibophweni) kanti ingxenywe 83 (ukuvumela ukwenziwa kocwaningo nophenyo olungokwesayensi)

Uhlelo oluphelele lwakho konke ukuphathiswa kwabanye amagunya kuyatholakala kulo Mnyango noma kungase kuhlolwe engosini ye-intanethi ethi www.mcm-deat.gov.za. UNgqongqoshe uhlose ukuphathisa ezinye izikhulu eMnyangweni amandla akhe okukhipha amalungelo okudoba izinhlanzi nezimvume ezikhungweni ezingu-19 zokudotshwa kwezinhlanzi ngenjongo yezentengiselwano. Le Nqubomgomo Ethinta Bonke (General Policy) kanye nezinye Izinqubomgomo Eziqondene Nokudotshwa Kwezinhlanzi zamukelwa nguNgqongqoshe ukuze ziqondise izikhulu eziphathiswe amagunya lapho zabela abanye amalungelo nezimvume zokudoba.

5.2 Imisebenzi Ewumgogodla yomnyango yokusekela ukwabiwa kwamalungelo

(a) *Ucwaningo Ngezindawo Zokudoba*

IBhodi Labaqondisi Abaphethe: Ucwaningo, i-Antarctica neziqhingi zinomthwalo wemfanelo wokuqondisa ukwenziwa kwalo msebenzi. Injongo ebalulekile yocwaningo olungokwesayensi ukuqinisekisa ukusetshenziswa okusimeme kwezinhlobo zezinhlanzi nendawo yazo ezungezile nokulondolozwa kwemvelo yasolwandle nendawo eyizungezile, kuhlangukise nezinhlangothi zezinhlanzi ezingahloselwe ukusetshenziswa njengezimvu zamanzi (seals) kanye nezinyoni zamanzi (seabirds).

Lo Mnyango usekela iSimiso 15 seSivumelwano saseRio de Janeiro seNgqungquthela ye-UN maqondana neMvelo kanye neNtuthuko (Rio de Janeiro, 1992), ophawula ukuthi "ukuze kuvikelwe imvelo, isinyathelo sokuqapha sizosetshenziswa yiMibuso ngokuvumelana namakhono ayo. Lapho kukhona khona usongo lokuqothula okubi noma okungenakulungiswa, ukuntuleka kwesiqinisekiso esingokwesayensi ngeke kusetshenziswe njengesizathu sokuhlehla izinyathelo ezikufanelekelayo ukusetshenziswa kwezimali ukuze kuvinjelwe ukuwohlozwa kwemvelo.

Lo Mnyango uyazisekela izinyathelo zokuqapha kuzo zonke izindawo zokudotshwa kwezinhlanzi. Ngenxa yokuthi ukungaqiniseki kukhinyabeza zonke izici zohlelo lokudotshwa kwezinhlanzi, ukuqapha kuyadingeka kuzo zonke izigaba zalolu hlelo.

Ucwaningo lwezesayensi luhloselwe ukuqonda konke okuhilelekile ngezinhlobo zezinhlanzi futhi kuqinise i-Total Allowable Catch ("TAC") i-Total Applied Effort ("TAE") ehlelwe ngokwemibandela yengxenywe 14 ye-MLRA. Amaqembu ezesayensi asebenzayo anesibopho sokuchaza uhlaziyo lwezinhlobo zezinhlanzi olwenziwe ezinhlotsheni zezinhlanzi ezihlukahlukene futhi le ncazelo ekugcineni iqinise ukuzimisela kwe-TAC/TAE. Ucwaningo lwezesayensi luphinde luqinise ukuhlelwa kwezindawo ezivikelwe zezinhlanzi, ukuhlelwa kwezindawo zokudotshwa kwezinhlanzi, ukunqunywa kwezindawo ezivaliwe, izinkathi zonyaka okuvaliwe ngazo, izinkathi okungavunyelwe ukuba kudotshwe ngazo, usayizi wezinhlangothi zezinhlanzi ezingase zidotshwe, imingcele ebekelwe izikebhe namathuluzi okudoba nezindlela zokudoba, kuhlangukise nezindlela zokuvimbela ukudoba izinhlanzi okungamelwe zidotshwe. Ucwaningo lwezesayensi luphinde futhi luqhutshwe ukuze kwakhiwe izindawo ezintsha zokudobela, ngokuvumelana ne-Nqubomgomo Entsha Yezindawo Zokudoba yalo Mnyango.

Amaqembu ezesayensi asebenzayo okwamanje asebenza ngokuvumelana nendawo ngayinye yokudoba izinhlanzi. Iqembu ngalinye elisebenzayo lakhiwe ososayensi bomnyango kanye nochwepheshe bangaphandle abavela kwezinye izinhlangano zososayensi bezinto eziphila olwandle, njengezinhlangothi zezemfundo ephakeme. Imikhakha eminingi iqondiswa ngokwesayensi ngokuvumelana nemibandela ye-Operational Management Procedure ("OMP"). Eminye iqondiswa ngokuvumelana nokuhlola okwenziwa minyaka yonke.

(b) *Ukuphathwa Kwezindawo Zokudoba*

IBhodi Labaqondisi Abaphethe: Abaphathi Bezindawo Zokudoba Nezingu yibona ngokuyinhloko abanesibopho esiyinhloko sokwenziwa kwale misebenzi emibili. Okokuqala, ukwenza lula nokuqondisa intuthuko esimeme nelinganayo kanye nokusetshenziswa kwemvelo yasolwandle ngokuqondisa ukukhishwa kwamalungelo okudoba, izimvume, ukukhululwa ezibophweni ezithile kanye namalayisensi. Okwesibili, umsebenzi walo ukuletha ikhambi elingcono kakhulu lokusetshenziswa okusimeme kwemithombo yemvelo yasogwini lwaseNingizimu Afrika, ngokulawula amathonya abantu ababa nawo emvelweni (ngaphandle kokudoba izinhlanzi ngenjongo yokuzithengisa), njengokuthuthukiswa kwezindawo ezisogwini, ukudoba ngenjongo yokuziphilisa, ukudoba ngenjongo yokuzijabulisa nokungcebeleka, ukungcoliswa kolwandle kanye nezokuvakasha zasolwandle. IBhodi Labaqondisi Abaphethe lisekelwa ngochwepheshe abanolwazi olunzulu kwezokudoba ngenjongo yezentengiselwano, ukuphathwa kwezindawo zokudoba, abaphathi bokulawulwa kokungcoliswa kolwandle ngowoyela kanye nabaphathi bezingu zezifundazwe.

(c) Ukuvumelana Nemithetho Ebekelwe Izindawo Zokudoba Nezingu

Ukufezwa kwalo msebenzi kulawulwa yiBhodi Labaqondisi Eliphethe: Ukuvumelana Nemithetho Ebekelwe Izindawo Zokudoba Nezingu Ukuze kuqinisekise ukuthi kwenziwa ngokuvumelana nemithetho ebekelwe izindawo zokudoba, iBhodi Labaqondisi Eliphethe lisebenzisa izinyathelo ezingangana ezihloselwe ukukhuthaza nokuphoqelela ukugcinwa komthetho. Lezo zinyathelo zihlanganisa:

- ☐ Imikhumbi yokuqapha imvelo ngaphakathi nangaphandle kogu yobuchwepheshe obusezingeni eliphezulu kakhulu.
- ☐ Izinkantolo ezikhethekile zokudingida amacala okuhlukunyezwa kwemvelo;
- ☐ Izinhlelo zabaqaphi
- ☐ Izindawo zasolwandle ezivikelwe;
- ☐ Izinhlelo zokuqapha izikebhe/imikhumbi
- ☐ Izinhlelo zokufundiswa komphakathi;
- ☐ Ukuphathwa ngokubambisana kwezinhlobo zezinhlanzi;
- ☐ Ukuqashwa kwezikhulu zokulawulwa kwezindawo zokudoba izinhlanzi ezinesibopho sokuqinisekisa ukuthi konke ukudoba kwenziwa ngendlela elawulwayo nesemthethweni nokuthi bonke zonke izinhlanzi ezidotshiwe zibalwa ngendlela efanele;
- ☐ Izikhulu eziqotho zokulawula ukudotshwa kwezinhlanzi, kanye
- ☐ Izinhlangano eziklanyelwe ukusebenzisa amasu okugcinwa komthetho ezingahlangene nezinhlangano zikahulumeni, ohulumeni bendawo, izindikimba zokugcinwa kwemvelo kanye namanye amalungu athintekayo ombuso.

(d) Ukutholakala Kokwaziswa

Izikhulu zokwaziswa zoMnyango eziphathiswe umthwalo ngezinjongo zokubhekela uMthetho 2, ka-2000 Wokutholakala Kokwaziswa ("PAIA") nguMqondisi Ophethe: Ucwango, i-Antarctica neziQhingi, uMqondisi Ophethe: Ukuphathwa Kwezindawo Zokudoba Nezingu noMqondisi Ophethe: Ukuvumelana Nemithetho Ebekelwe Izindawo Zokudoba Nezingu

Intilibathwa yokwaziswa maqondana nokwabiwa kwamalungelo kwangesikhathi esidlule, njengezinqubomgomo, imibhalo egciniwe yezinqumo, izizathu ezishicilelwe, kanye neminye imibhalo egciniwe enjengezicinalwazi zokugcinwa

kwemithetho, ama-TAC nama-TAE kuyatholakala kulo Mnyango. Eminye imibhalo egciniwe iyatholakala futhi emahhovisi okulawulwa kwezindawo zokudotshwa kwezinhlanzi oma engosini ye-Intanethi yalo Mnyango ethi (www.mcm-deat.gov.za). Ukwaziswa okwengeziwe ngendlela yokufinyelela le mibhalo egciniwe ingase itholakale ngenye yalezi zindlela ezilandelayo:

- Thintana ne-Client Care Line yalo Mnyango kule nombolo 0861 123 626; noma
- Vakashela iSikhungo Sokunakekelwa Kwamakhosimende (Customer Service Centre) salo Mnyango eForetrust Building, 2nd Floor, Martin Hammerschlag Way, Foreshore, eKapa.

Njengasesikhathini esidlule, ngemva nje kokuba sekuphuthuliwe ukuhlolwa kwezicelo, futhi sekumenyenzelwe nezinqumo, imibhalo emininigi egcinwe yilo Mnyango izodalulwa ngaphandle kwempoqo futhi izotholakala kalula, njengoba kuhlinzekwe engxenyeni 15 ye-PAIA. Ngamanye amazwi, amafomu okutholakala kokwaziswa akumelwe agcwaliswe. Imibhalo egciniwe ingase ihlolwe futhi amakhophi azohlizwe lapho ecelwa ngemadlana ezonqunywa yokuwakhiqiza. Kalula nje, umnyango uzodinga kuphela ukuba amafomu okutholakala kokwaziswa agcwaliswe, futhi uzohlola kuphela izicelo ngokwemibandela yezinhlinzeko ze-PAIA, uma ukutholakala kwale mibhalo egciniwe eyakhiwe ngama-third party (njengamafomu ezicelo agcwaliswe kanye nokujotshelwe kuwo) kufunwa. Indlela yokutholakala kwalokhu kwaziswa idingidwa ngokuningiliziwe ngezansi.

INGXENYE B: IZINDLELA NEZINQUBO ZOKWABA

6. Ukwabiwa Kwamalungelo Okudoba

6.1 Isimo esingokomthetho Selungelo Lokudoba

Ngaphambi kokuba i-MLRA iqale ukusebenza ngo-1998, lo Mnyango wakhipha *"isibalo okungamelwe seqiwe (quota)"* ngaphansi koMthetho 12 ka-1988 Wezindawo Zokudoba Zasolwandle. Ingxenye 18 ye-MLRA manje ihlinzeka ngokwabiwa *'kwamalungelo'* okudoba. Isimo esingokomthetho *'selungelo'* elabiwe ngaphansi kwe-MLRA siyafana *'nesibalo okungamelwe seqiwe'* esabiwe ngaphansi Kwezindawo Zokudoba Izinhlanzi. *"Amalungelo"* abiwe ngaphansi kwe-MLRA akuwona amalungelo empahla futhi kufanele aqondwe njengemvume egunyazwe ngesishaya-mthetho yokudoba izinhlanzi zasolwandle inkathi ethile enqunyiwe. Ngakho-ke, ukusula noma ukuhoxa akusho ukuphucwa ngokomthetho ilungelo lempahla ngokwenzazelo yengxenye 25 yoMthetho-sisekelo noma uMthetho 63 ka-1975 Wokuphucwa Impahla Ngokomthetho. Lokhu kucacile ngokwengxenye 18(6) ye-MLRA, ebonisa ukuthi ilungelo lokudoba liyasebenza phakathi nenkathi enqunywe nguNgqongqoshe (noma umphathiswa wakhe) okuthi kamuva libuyele eMbusweni futhi lingase labiwe kabusha (linikezwe obekuwumnikazi walelo lungelo wangaphambili noma enye indikimba/inhlangano) ngokwemibandela yezinhlinzeko ezisebenzayo ze-MLRA.

Ilungelo lokudoba linikezwa umuntu othile noma indikimba/inhlangano ethile, ngokwemibandela yengxenye 21 ye-MLRA, ilungelo lingase lingaduliswa ngaphandle kokugunyaza kukaNgqongqoshe noma umphathiswa wakhe. Lapho umnini lungelo efa, ephucwa ilungelo okwesikhashana, ibhizinisi lakhe kuthiwa liwile, ilungelo liba semahlombe omabi wefa,

umphathiswa noma okhokhisa izikweletu zokweletayo futhi ilungelo lingase liqhubeke lisetshenziswa inkathi yesikhathi evunyelwa yizinhlinzeko zomthetho ezisebenzayo ezisemthethweni. Nokho, noma yikuphi ukudluliswa kwelungelo lokudoba komunye umuntu kudinga ukuba kugunyazwe ngokusemthethweni.

6.2 Ukwabiwa Kwamalungelo Nokucatshangelwa Kwabaphathi

Inqubomgomo Ehlenganisa Konke kanye nezinye izinqubo eziqondene Nezindawo Zokudoba Izinhlanzi zisekelwe ezimisweni ezinhlanu eziwumgogodla ezilawula ukwabiwa nokuphathwa kwamalungelo okudoba ngenjongo yezentengiselwano. Izimiso ezinhlanu zifakazela futhi ziqinise imigomo ehlelwe eNgxenyeni 2 ye-MLRA. Yilezi:

- (a) **Izinguquko:** Izinguquko nesidingo sokufinyelela ukulingana phakathi kwawo wonke amagatsha emboni yezokudoba.
- (b) **Ukucatshangelwa kwezinto eziphilayo:** Ithonya ezinhlotsheni zezinhlanzi ezifunwayo kumelwe licatshangelwe. Lokhu kwenziwa ngokuyinhloko ngokumiswa kwe-Total Allowable Catch ("TAC") [Ingqikithi Yezinhlanzi Okuvumeleke Ukuba Zidotshwe] noma i-Total Allowable Effort ("TAE"), [Ingqikithi Yomzamo Ovumelekile] noma kokubili.
- (c) **Ukucatshangelwa kokuhlobana kwezinto eziphilayo nendawo yazo ezungezile:** Ithonya esimisweni sokuphila kwezinhlanzi zasolwandle nendawo ezikuyo lapho kunezinhlobo ezifunwayo kumelwe licatshangelwe.
- (d) **Imboni nokucatshangelwa komnotho womphakathi nezentengiselwano:** Njengoba nje kungaba njalo futhi kube kufaneleka, ithonya lomnotho womphakathi lokwabiwa kwamalungelo kubanikazi bawo, izisebenzi kanye nabathengi liyacatshangelwa, ikakhulu kulabo bantu nemiphakathi encike kule mithombo yokudla ukuze izondle. Ukucatshangelwa kwezezimboni nezomnotho kuhlenganisa isimo nenani lotshalo-mali empahleni, ukumaketha nokulungiswa kwezinhlanzi kanye nesilinganiso sezidotshwayo
- (e) **Ukufeza umsebenzi noma ikhono lokuwufeza:** Njengoba nje kungaba njalo futhi kube kufaneleka, ukwenza inzuzo engokwezimali nokudoba izinhlanzi, ukunyezela inani elibhekile, ukuthuthukisa ibhizinisi nokuvula amathuba omsebenzi, kanye nokwenza ngokuvumelana nemithetho ye-MLRA, Imithetho, imibandela yezimvume kanye nezinye izimfuneko ezingokomthetho, kuyacatshangelwa.

6.3 Inqubo Yokwaba

(a) Ukubamba iqhaza komphakathi ekwakhiweni kwenqubomgomo

UNgqongqoshe wabamba Izimbizo ezingu-6 emiphakathini engasezingwini zolwandle phakathi nengxenywe yokugcina ka-2004. Le mihlangano yayiyisigalo esingahleliwe esiyisa enqubweni yokuthintana nomphakathi maqondana nokwabiwa kwamalungelo okudoba ahlala isikhathi eside.

Inqubo ehleliwe yokuthintana nomphakathi ihlanganisa isaziso kanye nenqubo yokusika elijikayo maqondana nakho kokubili Inqubomgomo Ehlanganisa Konke kanye nezinqubomgomo ezithile ezimayelana Nezindawo Zokudoba Izinhlanzi. Umbiko ophелеle omayelana nenqubo yokubamba iqhaza komphakathi kanye nokwamukelwa kwalezi zinqubomgomo kuyotholakala engosini ye-intanethi ethi <http://www.mcm-deat.gov.za>. Ngamafuphi, ekuqaleni kukaMashi 2005, lo Mnyango washicilela uhlelo oluwuhlaka lwale Nqubomgomo ehlanganisa konke kanye nohlaka lwenqubomgomo ephathelene Nezindawo Zokudotshwa Kwezinhlanzi yomkhakha ngamunye. Izinhlangano nabantu abahilelekile bamenywa ukuba basike elijikayo ngalezi zinqubomgomo. Nokho, abanikazi bamasheya nabahilelekile ezindaweni ezihlukahlukene zokudoba bavela ezizindeni ezihlukene kakhulu futhi ngaleyo ndlela kwaba okungafanelekile ukuba bonke babanjiswe iqhaza ngendlela efanayo. Ngaphandle kwenqubo yokukhishwa kwesaziso nokusika elijikayo, nokuze kusizwe ababambi beqhaza emikhakheni yendabuko ukuba baphawule, uchungechunge lwemihlangano yomphakathi lwabanjwa lapho izinqubomgomo ezihlongozwayo zachazwa khona, kwaphendulwa imibuzo futhi imibono yezethameli zalo mhlango yaqotshelwa phansi ephepheni. Izinhlangano nabantu abanesithakazelo bazonikezwa futhi ithuba lokuba basike elijikayo emafomini okwenza isicelo ahlangozwayo.

(b) Inqubo Yokwaba enqunywa Isishomo (Cluster)

Ngokwezinjongo zenqubo yokwabiwa kwamalungelo ahlala isikhathi eside, imikhakha engu-19 yokudoba ihlanganiswe ndawonye ezishomweni (clusters) ezine ngenjongo yokuhlola kwezicelo zamalungelo okudoba. Injongo yokuqoqela ndawonye izindawo zokudoba iphathelene nokuqondisa, izinqubo zokulandelwa futhi, ngokwezinga elithile, kubalulekile. Nokho, indinganiso ehlukile ingase isetshenziswe emikhakheni ewela kwi-cluster efanayo. La ma-cluster yilawa:

Cluster A

- ☐ Hake Deep Sea Trawl
- ☐ Hake Inshore Trawl
- ☐ Horse Mackerel
- ☐ Small Pelagics
- ☐ Patagonian Toothfish
- ☐ South Coast Rock Lobster
- ☐ KwaZulu-Natal Prawn Trawl

Cluster C

- ☐ Handline Hake
- ☐ West Coast Rock Lobster (near shore)

Cluster B

- ☐ Hake Long Line
- ☐ West Coast Rock Lobster (off shore)
- ☐ Squid
- ☐ Seaweed
- ☐ Tuna Pole
- ☐ Demersal Shark

Cluster D

- ☐ Net Fish (trek- and gillnets; beach seine)
- ☐ KZN Beach Seine
- ☐ Oysters
- ☐ White Mussels

(c) Ezokuxhumana

Phakathi nenkathi yokwenza isicelo, izikhulu zoMnyango, isikhulu esiphathiswe igunya nguNgqongqoshe, ngeke baxhumane nabantu ngabanye abenze izicelo ngokuphathelene nezicelo zabo, ngaphandle kokusebenzisa indlela echazwe kule Nqubomgomo Ehlanganisa Konke. Ngokufanayo, abenzi bezicelo nabameleli babo bangase bangaxhumani

noNgqongqonshe, isikhulu esiphathisiwe noma izikhulu zoMnyango maqondana nezicelo ngaphandle kokusebenzisa indlela echazwe kule Nqubomgomo ehlanganisa konke. Akunakuthenjela kunoma yikuphi ukwaziswa okunikezwayo noma okutholakala nganoma iyiphi enye indlela. Imizamo yokuthonya isinqumo sesikhulu esiphathisiwe noma sesikhalazo ngokwabiwa kwamalungelo noma ilungelo noma inani noma isabelo noma umzamo nganoma iyiphi enye indlela kuyoholela ekwenqatshweni kwesicelo noma isikhalazo.

Ama-Cluster A no-B

Ngale kokuba kuhlinzekwe ngenye indlela kule Nqubomgomo ehlanganisa konke, ukuxhumana phakathi kukaNgqongqoshe, isikhulu esiphathisiwe kanye nezikhulu zoMnyango Wezokuxhumana ngakolunye uhlangothi, nabenzi bezicelo ngakolunye, kungenzeka kuphela ngezindlela ezintathu ezikhungweni zama-**Cluster A no-B**.

- ❑ I-Electronic Media: Izinqubomgomo nezinye izincwadi zizoshicilelwa engosini ye-Inthanethi ethi <http://www.mcm-deat.gov.za>. Kuzomiswa uhlu lokuthunyelelwa kwabantu ukwaziswa nge-e-mail ukuze kuxhunyanwe ngokuqondile nabenzi bezicelo. Phakathi nenkathi yokwenza izicelo, ukungaqondi nemibuzo edinga ukucaciswa kuzophendulwa nge-e-mail. Ngeke kube khona ukuxhumana nabantu ngasese. Konke ukungaqondi nezikhalazo okwamukelwe, nezimpendulo eziyonikezwa, kuzohlanganiswa bese kusakazwa kanye kanye kubo bonke abenzi bezicelo ababhalisile. Lokhu kwaziswa kuzotholakala futhi nasengosini ye-Inthanethi.
- ❑ KuSomqulu: Zonke izinqubomgomo, izimemo ezizosebenza kanye nezaziso eziqondiswe kubantu bonke zizoshicilelwa kuSomqulu.
- ❑ Izindikimba eziqashelwayo zezimboni namaqembu anesithakazelo: Izinqubomgomo nezinye izincwadi zizojikeleziswa ngalezi ndikimba eziqashelwayo kanye namaqembu anesithakazelo.

Ama-Cluster C no-D

Ngale kokuba kuhlinzekwe ngenye indlela kule Nqubomgomo ehlanganisa konke, ukuxhumana phakathi kukaNgqongqoshe, isikhulu esiphathisiwe kanye nezikhulu zoMnyango Wezokuxhumana ngakolunye uhlangothi, nabenzi bezicelo ngakolunye, kungenzeka kuphela ngezindlela ezintathu ezikhungweni zama-**Cluster A no-B**.

- ❑ I-Electronic Media: Izinqubomgomo nezinye izincwadi zizoshicilelwa engosini ye-Inthanethi ethi <http://www.mcm-deat.gov.za>.
- ❑ KuSomqulu: Zonke izinqubomgomo, izimemo ezizosebenza kanye nezaziso eziqondiswe kubantu bonke zizoshicilelwa kuSomqulu.
- ❑ Izindikimba eziqashelwayo zezimboni namaqembu anesithakazelo: Izinqubomgomo nezinye izincwadi zizojikeleziswa ngalezi ndikimba eziqashelwayo kanye namaqembu anesithakazelo.
- ❑ I-Call centre: Lo Mnyango umise i-call centre enabasizi abazophendula imibuzo ephathelene namalungelo ezabelo.
- ❑ ISikhungo Sokunakekelwa Kwamakhasimende: Lo Mnyango umise isikhungo sokunakekelwa kwamakhasimende eKapa.
- ❑ Izikhulu zeMnyango zizonikeza usizo kubenzi bezicelo ezindaweni zokwaba nokukhokha futhi zizobamba imihlangano ezikhungweni eziningana ezikhangisiwe ngasogwini lapho inqubo yokwenza izicelo izochazwa khona.

(d) Ulimi

Ku-Cluster A, lezi zinqubomgomo namaphuzu achazayo emafomini ezicelo kuzotholakala ngesiNgisi nangesiBhunu.

Ku-Cluster B, C no-D, lezi zinqubomgomo namaphuzu achazayo emafomini ezicelo kuzotholakala ngesiNgisi isiBhunu, isiXhosa nangesiZulu.

Uma kuba khona ukungqubuzana kwemibono, kuyolandela lokho okushiwo ngumbhalo wesiNgisi wale nqubomgomo noma umbhalo ochazayo.

(e) Isimemo sokufaka isicelo samalungelo

Izimemo zokufaka izicelo zamalungelo okudoba ngenjongo yezentengiselwano ziyoshicilelwa kuSomqulu. UMnyango uyoqinisekisa futhi ukuthi izaziso zifakwa engosini ye-Intanethi yalo Mnyango nasemaphephandabeni ezifundazwe.

Izimemo eziyoshicilelwa kuSomqulu ziyohlanganisa lezi zingxenye ezilandelayo:

- ☐ Isimemo esifushane sokufaka isicelo esifanelekile sokunikezwa ilungelo lokudoba ngenjongo yezentengiselwano phakathi nenkathi ethile ebonisiwe.
- ☐ Inqubomgomo ephathelene nezindawo zokudoba izinhlanzi.
- ☐ Ifomu lokwenza isicelo sokudoba izinhlobo ezithile zezinhlanzi kanye neqoqo leziyalezo, amaphepha anamaphuzu achazayo, kanye namaphepha anamaphuzu ohlelo lwezincwadi okumelwe zethulwe.

Lesi simemo ngeke sibandakanye nale Nqubomgomo ngokufanayo. Nokho, abenzi bezicelo bazohlizekwa ngamakhophi ale Nqubomgomo lapho beyicela. Izimemo ziyohlelwa ngokwama-cluster.

(f) Amafomu Okwenza Isicelo

Indawo ngayinye yokudoba izoba nefomu layo lokwenza isicelo elihlukile eliklanyelwe ukuthola ukwaziswa okuyobhekwa njengokufanelekile ukuze izicelo zihlaziye ngokugculisayo zokuthola ilungelo lokudoba ngenjongo yezentengiselwano elithintekayo. Amafomu okwenza izicelo ayoklanywa kucatshangwa nge-cluster yendawo yokudoba izinhlanzi kanye nendawo yokudoba ethintekayo.

Amafomu okwenza izicelo ahlangezwayo ayoshicilelwa ukuze umphakathi usike elijikayo engosini ye-intanethi ethi <http://www.mcm-deat.gov.za>, njengengxenye yokubanjiswa komphakathi iqhaza.

(g) Ukusakazwa kwamafomu okwenza izicelo kanye nokukhokha kwezimali**U-Cluster A**

Ku-Cluster A, abenzi bezicelo kuzodingeka ukuba bangene engosini ye-intanethi yalo Mnyango ukuze bakwazi ukufaka iminininingwane efinqwe ebachazayo, njengegama, inombolo yokurejistwa kwenkampani, iminininingwane yokuxhumana nokunye. Lapho seligcwalisiwe, umenzi wesicelo uzokwaziswa ukuthi angayikhokha kanjani imali yokwenza isicelo.

Abenzi bezicelo kuzodingeka bakhokhe imali yokwenza isicelo ngaphambi kokuba kukhishwe ifomu lokwenza isicelo. Izimali zokwenza isicelo kumelwe zikhokhwe ngokuqondile kuyi-akhawunti yasebhange ebonisiwe yophiko lwe-Rights Verification Unit. Lapho kwamukelwa isiqinisekiso sokukhokha, umenzi wesicelo uzovunyelwa ukuba alande ifomu lokwenza isicelo lisesimweni se-compact disc ("CD") ehhovisi lendlunkulu yophiko lwe-Rights Verification Unit, kanye ne-software efanelekile yokusebenzisa leli fomu.

U-Cluster B

Amafomu ezicelo angamaphepha azosakazwa endaweni ebonisiwe eKapa. Abenzi bezicelo kuzodingeka ukuba bafake imali yokwenza isicelo kuyi-akhawunti yebhange elibonisiwe lophiko lwe-Rights Verification Unit, futhi ukuze baqinisekise ukuthi bakhokhile (bathumele isiliphu sokufaka imali noma isiqinisekiso esithunyelwe nge-e-mail) endaweni okutholakala kuyo amafomu ngaphambi kokuba bawalande. Abenzi bezicelo kuzodingeka ukuba bathumele imininingwane ebachazayo efinqwiwe endaweni okutholakala kuyo amafomu, enjengegama, inombolo yokurejiswa kwenkampani, imininingwane yokuxhumana nokunye okufanayo. Ngemva kokuba sebeligcwalisile, nangemva kokuba sekutholakale isiqinisekiso sokuthi imali yokwenza isicelo ifakiwe, abenzi bezicelo bazonikezwa ikhophi eyiphepha yefomu lokwenza isicelo elinenombolo.

Ama-Cluster C no-D

Kuma-Cluster C no-D, amafomu okwenza izicelo azosakazwa ezindaweni ezihlukahlukene ezikhangisiwe eduze kogu lolwandle. Abenzi bezicelo kuzodingeka ukuba bafake imali yokwenza isicelo kuyi-akhawunti yebhange elibonisiwe lophiko lwe-Rights Verification Unit, futhi ukuze baqinisekise ukuthi bakhokhile (bathumele isiliphu sokufaka imali noma isiqinisekiso esithunyelwe nge-e-mail) endaweni okutholakala kuyo amafomu. Abenzi bezicelo kuzodingeka ukuba bathumele imininingwane ebachazayo efinqwiwe ezisebenzini ezisendaweni okutholakala kuyo amafomu, enjengegama, inombolo yokurejiswa kwenkampani (uma benayo), imininingwane yokuxhumana nokunye okufanayo. Lapho ifomu seligcwalisiwe futhi sekukhishwe isiqinisekiso sokuthi imali ifakiwe, abenzi bezicelo bazonikezwa ifomu lokwenza isicelo.

(h) Izimali zokufaka isicelo

UNgqongqoshe, ngemva kokuba ethintene noNgqongqoshe Wezezimali, unomthwalo wokunquma izimali zokwenza isicelo. Inqubomgomo emayelana nezimali ezikhokhelwa ukwenza isicelo izocatshangelwa ngemva kokuba sekwenziwe inqubo ehlukile yokuthintana nomphakathi.

(i) Isiqinisekiso Ngabagcini Bambhuku Ezimali

Abenzi bezicelo ezigcemeni zokudoba ku-**Cluster A** kuzodingeka ukuba basebenzise abagcini mabhuku ezimali abahlukile ukuze bafakazele ukuthi ukwaziswa okunikeziwe kuyiqiniso kwezinye izikhala zamaforamu abo okwenza isicelo. Indikimba yochwepheshe efanelekayo iyonquma ukuthi yiziphi izinqubo eziyolandelwa zokuqinisekisa lokhu. Lokhu ngeke kwenziwe ku-**Cluster B, C no-D**.

(j) Ukwamukela Izimali Zokukhokha

Ku-**Cluster A**, abenzi bezicelo kuyodingeka ukuba balethe ama-CD abo agcwalisiwe kanye namakhophi aphrintiwe efomu lokwenza isicelo, izijobelelo kanye namakhophi ngesandla endaweni abazoyilayelwa naphakathi nenkathi ebonisiwe eKapa.

Ku-**Cluster A**, abenzi bezicelo kuyodingeka ukuba balethe amafomu okwenza isicelo agcwalisiwe, izijobelelo kanye namakhophi ngesandla endaweni yokukhokha abazoyilayelwa naphakathi nenkathi ebonisiwe eKapa.

Ku-**Cluster C**, abenzi bezicelo kuyodingeka ukuba balethe amafomu okwenza isicelo agcwalisiwe, izijobelelo kanye namakhophi ngesandla ezikhungweni ezihlukahlukene zokukhokha ezikhangiswe kusengaphambili zezifunda ngasogwini lolwandle phakathi nenkathi ebonisiwe.

Ku-**Cluster D**, abenzi bezicelo kuyodingeka ukuba balethe amafomu okwenza isicelo agcwalisiwe, izijobelelo kanye namakhophi ngesandla ezikhungweni ezihlukahlukene zokukhokha ezikhangiswe kusengaphambili zezifunda ngasogwini lolwandle phakathi nenkathi ebonisiwe. Izikhungo zokukhokha kuyoba yizikhungo ezifanayo okutholakala kuzo amafomu, futhi ukutholakala kwamafomu kanye nokukhokha kuyokwenziwa endaweni efanayo nangenkathi efanayo.

(k) Amakhophi**U-Cluster A**

Abenzi bezicelo baka-**Cluster A** kuyodingeka ukuba bagcwalise amafomu abo okwenza izicelo besebenzisa izigcina lwazi (electronically) bese bewagcina kuyi-CD abayihlinzekelwe le njongo. Abenzi bezicelo kuyodingeka baphrinte ikhophi yephepha yaleli yaleli fomu eligcwalisiwe. Ifomu eliphrintiwe kufanele lisayinwe futhi isifungo kumelwe sifakazelwe phambi kukukhomishana wezifungo. Kumelwe kwenziwe ikhophi yaleli fomu. Sekukonke, abenzi bezicelo kuyodingeka ukuba bafake futhi balithumele ngesandla endaweni ebonisiwe nangesikhathi esibonisiwe.

- ☐ Ikhophi eyodwa yefomu lesicelo elenziwe esigcinalwazini (electronic) egcinwe kuyi-CD ehlinzekelwe le njongo;
- ☐ Ikhophi ephrintiwe ebiyenzelwe esigcinalwazini, yasayinwa futhi yaqinisekiswa ngukhomishana wezifungo kanye namasheduli adingekile ezijobelelweni zefomu; kanye
- ☐ Nekhophi yefomu lokwenza isicelo nezijobelelo okusayiniwe futhi kwaqinisekiswa ngukhomishana wezifungo.

Ama-Cluster B, C no-D

Umenzi wesicelo noma ummeleli ogunyaziwe womezi wesicelo ka-**Cluster B, C no-D** kuzodingeka ukuba ngemva kokuba ifomu seligcwalisiwe, asayine isifungo futhi asifakazele phambi kukukhomishana wezifungo. Leli fomu lokwenza isicelo, kanye nesijobelelo salo kumelwe lenzelwe amakhophi futhi kokubili iphepha lokuqala kanye nekhophi kumelwe kulethwe.

(l) Ukuklanywa kwendinganiso nokunye (weighting)

Ukwaziswa okukwethulwa ngabenzi bezicelo kuyofakwa esigcinalwazini. Izinqubomgomo, isigcinalwazi nokwaziswa okuyokwethulwa ngezijobelelo, kuyobe sekusetshenziselwa ukwakhiwa kwendinganiso kanye ne-weighting emkhakheni

ngamunye ngezinjongo zokuhlola izicelo futhi ngemva kwalokho ukwabelwa isilinganiso sezinhlazi okumelwe zidotshwe (*quantum*) noma umzamo okumelwe wenziwe (*effort*).

(m) Ukwaziswa okumelwe kucatshangelwe

Indlela ehlelwe ngezansi izokwamukelwa yizikhulu eziphathiswe amagunya kanye nezikhulu zezikhalazo ngokwaziswa okuyomelwe kucatshangelwe lapho kuhlolwa izicelo.

(i) Izingxenye zefomu lokwenza isicelo ezingagcwalisiwe

Ngale kokuba kuboniswe ngenye indlela, uma kukhona ingxenye yefomu lokwenza isicelo engagcwalisiwe, kuyothathwa ngokuthi leyo ngxenye yefomu ayisebenzi kumenzi wesicelo. Uma ingxenye inamaphuzu avumayo ahlobene nempendulo, akukho maphuzu ozowaklonyeliswa.

I-ayikhoni ethile (i-ayikhoni 'yophawu lwesixwayiso') iyosetshenziswa ukubonisa lapho, uma isikhala singagcwaliswanga, impendulo engqubuzana nomenzi wesicelo iyothathwa ngokuthi injalo khona. Ngokwesibonelo, uma isikhala sishiywe singagcwalisiwe, kuzothathwa ngokuthi umenzi wesicelo uphendule ngokuthi "yebo" embuzweni onjengothi: "Ingabe wake wabekwa icala lobugebengu ngaphansi kwe-MLRA"? I-ayikhoni yophawu oluyisixwayiso ingase futhi isetshenziselwe ukubonisa ukuthi uma impendulo ishiywe ingagcwaliswanga embuzweni odinga u-yebo no-cha, noma odinga impendulo engaphezu kuka-yebo no-cha, kuyothathwa ngokuthi umenzi wesicelo uphendule ngokuthi cha, noma ngendlela ephambene nokubuziwe. Ngokwesibonelo, uma isikhala sishiywe singagcwalisiwe, kuzothathwa ngokuthi umenzi wesicelo uphendule ngokuthi "cha" embuzweni onjengothi: "Ingabe wake wabamba iqhaza njengelungu lamatilos emkhunjini/esikebheni esasisebenza esikhungweni sokudotshwa kwezinhlanzi esilinganiselwe noma esisebenza ngokugcwele kwezentengiselwano?"

(ii) Ukwaziswa okutholakale sekwephuzile

Ukwaziswa okulethwe ngemva kosuku lokuvala ngeke kucatshangelwe, ngaphandle uma kuyi-Rights Verification Unit ecele ukuba sicatshangelwe, noma kucele isikhulu esiphathiswe isikhundla noma uNgqongqoshe njengengxenye yokwabiwa kwamalungelo noma inqubo yesikhalazo/kashwele. Indlela ezolandelwa ekwethulweni kokunye ukwaziswa lapho kwenziwa isikhalazo noma kunikwe ushwele ichazwe ngezansi.

(iii) Ukwaziswa okuvele kweminye imithombo eseceleni

Ukwaziswa okuveza imibono ebandlululayo ngesicelo esamukelwe okuvela kweminye imithombo eseceleni ngeke kucatshangelwe nguNgqongqoshe noma isikhulu esiphathisiwe ngale kokuba umenzi wesicelo enikezwe ithuba lokuba aziphendulele ngokubheca ngobende angaludlanga.

(iv) Ukusetshenziswa kwezicinalwazi zoMnyango

UNgqongqoshe noma isikhulu esiphathisiwe angase asebenzise ukwaziswa okuqukethwe yizicinalwazi zoMnyango phakathi nenqubo yokwabiwa kwamalungelo ethatha isikhathi eside, kodwa uyokwenza kanjalo kuphela ngokwezinga abenzi bezicelo abanikezwe ngalo ithuba lokusebenzisa imilomo yabo njengamashoba okuziphungela mayelana nokunemba kokwaziswa.

(v) Ukunikezwa kokwaziswa noma izincwadi ezingamanga nokwehluleka ukubeka amaqiniso njengoba enjalo

Abenzi bezicelo noma abameleli babo abagunyaziwe kudingeka bafakazele isifungo phambi kukakhomishana wezifungo bagomele, phakathi kokunye, ukuthi abazange bahlizenze ukwaziswa okungamanga noma izincwadi ezingamanga nokuthi abazange bahluleke ukubeka amaqiniso njengoba enjalo. Ukwehlulwa kokwaziswa okungamanga noma ukwehlulwa kwezincwadi ezingamanga noma ukwehluleka ukubeka iqiniso njengoba linjalo kuyosinikeza isizathu esizwakalayo sokwenqaba isicelo.

Kuyophethwa ngokuthi umenzi wesicelo usinikeze ukwaziswa okungamanga uma kukhona ukungavumelani phakathi kokwaziswa okunikezwe ngumenzi wesicelo kanye nokwaziswa okuqukethwe ezicinalwazini ezigcinwe nguMnyango futhi lapho kokubili lokhu kwaziswa kungenakuba okunembile khona. Kuyophinde futhi kuphethwe ngokuthi umenzi wesicelo usinikeze ukwaziswa okungamanga uma kukhona ukungavumelani phakathi kokwaziswa okunikezwe ngumenzi wesicelo esicelweni sokuqala kanye nokwaziswa okunikezwe ngumenzi wesicelo, futhi lapho kokubili lokhu kwaziswa kungenakuba okunembile khona.

Ngaphezu kwalokho, ukusho isitatimende esingamanga esifungweni esifakazelwe, wazi ukuthi singamanga kuyicala lobugebengu.

(vi) Amakhophi ezincwadi

Ngeke kudingeke ukuba abenzi bezicelo babe nekhophi efakazelwe njengeyiqiniso, kodwa kuyophethwa ngokuthi noma iyiphi ikhophi abayifakile ifana ncamashi neyokuqala.

(n) *Ukubizelwa okanye ukwaziswa, uphenyo nokuxhumana*

UNgqongqoshe noma isikhulu esiphathisiwe angase ameme abenzi bezicelo ukuba bazokwethula ngomlomo noma banikeze okanye ukwaziswa okubhaliwe uma kukhona ukungaqiniseki ngokuphathelene nodaba oluyimfihlo ezicelweni eziningana. Uma kuzokwethanyelwa amacala adingidwa ngomlomo, abameleli bomthetho bayovunyelwa ukuba bazokhuluma noNgqongqoshe noma isikhulu esiphathisiwe.

UNgqongqoshe noma isikhulu esiphathisiwe angase acele ukuba uphiko lwe-Rights Verification Unit luphenye udaba oluthile, kuhlenganise nobuqiniso bokwaziswa okunikeziwe. Abenzi bezicelo kumelwe babambisane

nabaphenyi ngokuthi ngaso sonke isikhathi basabele ngesikhathi lapho bethunyelelwa izicelo ezilotshiwe ukuze banikeze ukwaziswa noma izincazelo, ngokuba khona emihlanganweni nabaphenyi, ngokuphendula imibuzo ngokugculisayo emihlanganweni enjalo, futhi lapho kudingeke khona, ngokuvumela ukuba abaphenyi bangene ezindaweni zabo, imikhumbi/izikebhe nokuba bafunde izincwadi zabo. Ukwehluleka ukubambisana nabo kuyonikeza isizathu esizwakalayo sokwenqaba ukwamukela isicelo.

(o) Ukusekela izikhulu eziphathisiwe

Izikhulu eziphathisiwe ezinomthwalo wokwenza izinqumo ngezicelo emkhakheni zingase zisekelwe 'yiKomiti Lokweluleka (Advisory Committee)', nangabaphathi abachwepheshile bamaphrojekthi, abameleli nabameli. Indima yeKomiti Lokweluleka iyonqunywa yisikhulu esiphathisiwe. IKomiti Lokweluleka lingase libizwe ukuze lisize ekuhloleni izicelo ngaphansi kokuqondisa kwesikhulu esiphathisiwe nangokuvumelana nendinganiso enqunywe yiso.

(p) Uhlu oluhlinzekwayo

Isikhulu esiphathisiwe singase sikhiphe uhlu oluhlinzekwayo ukuze kusikwe elijikayo nganoma isiphi isici kunoma yimuphi umkhakha. Ngokwesibonelo, kuma-Cluster C no-D isikhulu esiphathisiwe singase sicele ukuba kusikwe elijikayo mayelana nokuthi abenzi bezicelo abaye bahlinzekwa uhlu abaphumelalayo bancike kule mboni futhi ngesisekelo sokuphawula okwamukelwe angase enze isinqumo sokugcina.

Izikhulu eziphathisiwe ezindaweni zokudoba eziku-Cluster A no-B zingase zicele abameleli mayelana nokuhlolwa kwezicelo ngaphambi kokuba zenze izinqumo zokugcina. Kule mikhakha, izikhulu eziphathisiwe zingase zithintane nezinhlangano ezinesithakazelo nezithintekayo mayelana nenqubo yokwaba isilinganiso sobungako bezinhlanzi okumelwe zidotshwe (*quantum*) noma umzamo okumelwe wenziwe (*effort*) ngaphambi kokuba zenze lezi zinqumo.

(q) Isaziso ngezinqumo nezizathu

Ngemva kokuba isikhulu esiphathisiwe sesenze izinqumo ngokwabiwa kwamalungelo nesilinganiso sezinhlanzi okumelwe zidotshwe (*quantum*) kanye nomzamo okumelwe wenziwe (*effort*), lo Mnyango uyokwaziswa owenze isicelo ngencwadi ngezinqumo ezenziwe ngaleso sicelo. Ngaphezu kwalokho, lo Mnyango uyoshicilela imiphumela usebenzisa ubuchwepheshe bezigcinalwazi bese udlulisela imiphumela ngezindikimba ezihloniphekile kanye namaqembu anesithakazelo.

Abenzi bezicelo abangaphumelelanga

Abenzi bezicelo abangaphumelelanga bayothola lokhu okulandelayo kanye nencwadi ebazisa ngomphumela wesicelo sabo:

- ☐ Izizathu Ezishicilelwe eziyobe zibhalwe izindinganiso, inqubo yokwenza isinqumo kanye nendlela elandeliwe mayelana nezinqumo nobuningi bezinhlanzi okumelwe zidotshwe (*quantum*) noma umzamo okumelwe wenziwe (*effort*);
- ☐ Okuyisona sizathu esenze ukuba isicelo singamukelwa;
- ☐ Ifomu lesikhalazo, abenzi bezicelo okumelwe balifake kanye nesikhalazo;
- ☐ Isaziso ngosuku lokuvala, imininingwane yegunya lesikhalazo kanye nezinye izimfuneko ezisemthethweni zokwethulwa kwezikhalazo; kanye
- ☐ Ikhophi yanoma yiliphi iphepha le-score elisetshenziselwe ukubhala ukuhlolwa kwesicelo.

Ngaphezu kwalokho, izincwadi ezilandelayo ziyotholakala ngokuzenzekelayo ukuze zihlolwe noma zithengwe ngemali enqunyiwe;

- ☐ I-Spreadsheet of Decisions equkethe ukuhlolwa okufingqiwe kwazo zonke izicelo emkhakheni;
- ☐ Amaphepha e-Final Score abanye abenzi bezicelo; kanye
- ☐ Nezinhlu zokwenziwa kwezinqumo zezikhulu eziphathisiwe noma uNgqongqoshe.

Okuyisona sizathu esiqukethwe encwadini yesaziso kubenzi bezicelo abangazange baphumelele, kanye Nezizathu Ezishicilelwe, i-final score sheet kanye nokwaziswa okutholakala kalula, kwakha izizathu zokwenqatshwa kwesicelo.

Abenzi bezicelo abaphumelele

Abenzi bezicelo abaphumelele bayothola lokhu okulandelayo kanye nencwadi ebazisa ngomphumela wesicelo sabo:

- ☐ Izizathu Ezishicilelwe eziyobe zibhalwe izindinganiso eziye zasetshenziswa, inqubo yokwenza isinqumo kanye nendlela elandeliwe mayelana nezinqumo ngobuningi bezinhlanzi okumelwe zidotshwe (*quantum*) noma umzamo okumelwe wenziwe (*effort*);
- ☐ Ifomu Lokwenza Isicelo, abenzi bezicelo okumelwe balifake kanye nesikhalazo nge-*quantum* noma umzamo (*effort*)
- ☐ Isaziso ngosuku lokuvala, imininingwane yegunya lesikhalazo kanye nezinye izimfuneko ezisemthethweni zokwethulwa kwezikhalazo;
- ☐ Ikhophi yanoma yiliphi iphepha le-score elisetshenziselwe ukubhala ukuhlolwa kwesicelo; kanye
- ☐ Imibandela yemvume ehlanganisa konke esebenza kuleyo ndawo yokudoba izinhlanzi.

Ngaphezu kwalokho, izincwadi ezilandelayo ziyotholakala kalula ukuze zihlolwe noma zithengwe ngemali enqunyiwe;

- ☐ I-Spreadsheet of Decisions equkethe ukuhlolwa okufingqiwe kwazo zonke izicelo emkhakheni;
- ☐ Amaphepha e-Final Score abanye abenzi bezicelo; kanye

- Nezinhlulokwenziwazikwezinqumozezikhuluziphathisiwe noma uNgqongqoshe.

Izizathu Ezishicilelwe, i-final score sheet kanye nokwaziswa okutholakala kalula, kukuqinisa izizathu zezinqumo zokunikezwa kukamenzi wesicelo ilungelo lokudoba ngenjongo yezentengiselwano kanye nokumnqumela isabelo sezinhlanzi okulindeleke ukuba azidobe (*quantum*) nomzamo okumelwe wenziwe (*effort*).

(r) Izikhalazo

Bonke abenzi bezicelo bayoba nelungelo lokukhalaza ngokumelene nezinqumo zesikhulu esiphathisiwe. Isikhalazo singase sifakwe ngokumelene nokwenqatshelwa ukunikwa ilungelo noma ngokumelene nesinqumo sesilinganiso esinqunyiwe sezinhlanzi eziyodotshwa noma umzamo. Imininingwane ngokufakwa kwezikhalazo iyoqukathwa encwadini yesaziso.

Igunya eliphathe ezezikhalazo liyocabangela amaqiniso njengoba ayenjalo ngesikhathi sokuvalwa kokufakwa kwezicelo futhi ngeke sicabangele amaqiniso avele kamuva. Ngokwesibonelo, uma umenzi wesicelo eqale ukutshala izimali ngesikebhe/umkhumbi ngemva kosuku lokuvalwa kokwenziwa kwezicelo, lelo qiniso ngeke licatshangelwe lapho kucatshangelwa isikhalazo.

Uma isinqumo sesithathiwe, owenza isikhalazo uzokwaziswa ngokubhalelwa incwadi ngesinqumo esithathwe yigunya lezikhalazo.

(s) Ukutholakala Kokwaziswa

Imibhalo egciniwe elandelayo izotholakala kalula ukuze ihlolwe noma ithengwe ngemali enqunyiwe ngemva kokumenyezelwe kwemiphumela

- Noma yisiphi i-score sheet, i-spreadsheet noma enye incwadi esetshenziswa yisikhulu esiphathisiwe, uNgqongqoshe, noma abasizi babo, ukubhala phansi ukuhlolwa kwezicelo ezenziwe; futhi
- Ngokunxusa komenzi wesicelo noma ummeleli wakhe ogunyaziwe, isicelo sikamenzi wesicelo noma incwadi yokukhalaza.

Izicelo zokuthola imibhalo egciniwe elandelayo zizosingathwa ngokuvumelana noMthetho 2 ka-2000 Wokukhuthazwa Kokutholakala Kokwaziswa

- Ifomu lesicelo lomunye umenzi wesicelo;
- Izijobelelo ezifakwe kanye nefomu lesicelo lomunye umenzi wesicelo; kanye
- Nezincwadi zokukhalaza ezifakwe ngomunye umenzi wesicelo.

Maqondana nokutholakala kwale mibhalo egciniwe, isikhulu sokwaziswa salo Mnyango (the Chief Director: Resource and Coastal Management) siyosebenzisa izinqubo nemithetho ehlinzekwe yi-PAIA. Ukuze abenza izicelo basize abaqondisa

ukutholakala kwalokhu kwaziswa, kuyodingeka bafake izincwadi ezithile uma kwenzeka isikhulu sokwaziswa senqaba ukubanikeza lokho kwaziswa, njengalezo eziphathelele namasu okudoba omenzi wesicelo, amasu okuthengisa kanye nezitatimende zezimali kuyifolda ehlukile.

6.4 Ukwenza izinqumo

Zonke izinqumo ziyosekelwa emithethweni esebenzayo futhi zilawulwe yizinqubomgomo ezisebenzayo. Izinqubomgomo nolwazi olugciniwe oluyohlanganiswa ngemva kokuba sekwamukelwe izicelo, kuyosetshenziselwa ukwakha indinganiso eyolandelwa ethuthukiswe kakhudlwana ngenjongo yokuhlolwa kwezicelo ezifakwayo. Lezi zindinganiso zakhiwa kucatshangelwe ukwaziswa okwamukelwe ngemva kosuku lokuvala futhi azikhululwa ngaphambi kokuba kwenziwe inqubo yokwaba.

(a) *Izindinganiso ezisetshenziswayo ekwenziweni kwezinqumo zokwabiwa kwamalungelo*

Lo Mnyango ulindele ukuba kube nenani elikhulu lezicelo zamalungelo ahlala isikhathi eside futhi awulindele ukuba bonke abenzi bezicelo banikezwe amalungelo, uma kucatshangelwa isilinganiso esibekiwe njengamanje sezinhlanzi okumelwe zidotshwe nomzamo wokusebenza kuzo zonke izindawo zokudoba izinhlanzi. Abanye abenzi bezicelo ngeke bamukelwe ngenxa yokuthi abahlangabezani nezimfuneko eziyisisekelo. Konke okunye kulinganiswa ngokuvumelana neqoqo lezindinganiso ezibekiwe ukuze kukhethwe abenzi bezicelo abafaneleka kakhulu ngokuvumelana nezinqubomgomo nezindinganiso ezibekiwe. Le nqubo ihlela uhlobo lokuncintisana futhi umgomo ukuthola abenzi bezicelo abangcono kakhulu.

Kunezinhlobo ezine zezindinganiso eziyosetshenziswa ukuhlola izicelo ezifakiwe.

Izicelo ziyohlaziywa ngokwemibandela yalokho okuthiwa yi-*"exclusionary criteria"*, futhi kamuva zizolinganiswa ngokuvumelana nemibandela yalokho okuthiwa yi-*"weighted balancing criteria"*. Ngaphezu kwalokho, nakweminye imikhakha, isikhulu esiphathisiwe singase sisebenzise eyodwa noma yeziningi zezici ezibizwa ngokuthi ngama-*"tie-breaking factors"* ukuze senze isinqumo uma bebaningi kakhulu abafake izicelo abanamaphuzu alinganayo. Ingxenye ye-TAC noma i-TAE izobe isiyabelwa yilowo nalowo menzi wesicelo ngokuvumelana ne-*"quantum or effort criteria"*.

(i) I-exclusionary criteria

Kunezinhlobo ezintathu ze-exclusionary criteria ezizosetshenziswa.

Okokuqala, isicelo sizohlolwa ukuze kutholakale ukuthi safakwa kahle yini. Isicelo asifakwanga kahle uma samukelwe sekwephuzile; uma umenzi wesicelo engazange akhokhe noma ekhokhe imali engaphelele noma ephuzile ukukhokha imali yesicelo; noma uma kuwukuthi safakwa ngendlela engavumelani neziqondiso, njengokusebenzisa isikhahlamezi, noma ukusebenzisa elinye ifomu kunokusebenzisa ifomu lokwenza isicelo elisemthethweni. Isikhulu esiphathisiwe kanye

noNgqongqoshe akakwazi ukuzinqumela ukuvumela ukungagcinwa komthetho maqondana nezimfuneko zokufakwa kwezicelo.

Okwesibili, isicelo sizohlolwa ukuze kutholakale ukuthi asinalo yini iphutha. Isicelo sinephutha uma isifungo singazange sisayinwe ngumenzi wesicelo, noma uma isifungo somenzi wesicelo singazange sifakazelwe nguKhomishana Wezifungo, noma uma isicelo esingaphezu kwesidwa samukelwa kumenzi wesicelo ukuze anikwe ilungelo lokudoba emkhakheni ofanayo, noma uma umenzi wesicelo anikeza ukwaziswa okungamanga noma izincwadi ezingamanga, noma ahluleka ukudalula ukwaziswa okudingekayo, noma azama ukuthonya uNgqongqoshe noma abaphathiswa bakhe kunokusebenzisa indlela ehlinzekwe kuyiNqubomgomo phakathi nenkathi yokwenza isicelo. Ku-Cluster A, abagcini mabhuku abazimele kudingeka baqinisekise ukuthi ukusabela okuthile komenzi wesicelo kuyiqiniso futhi balungiselele umbiko osayiniwe maqondana nalokhu. Uma umenzi wesicelo encike ekwazisweni okuhlinzekwe yizinkampani ezinamalungelo angokomthetho noma amanye amalungu eqembu lezinkampani noma izinkampani ezinabantu ababambisene, abameleli abangokomthetho balezi zinkampani nabo kudingeka basayine futhi bafakazele isifungo. Isicelo siyoba esinephutha futhi uma umbiko womgcin mabhuku ozimele ungazange uhlinzekwe futhi usayinwe (uma kudingekile) noma uma isifungo sabameleli abagunyaziwe benkampani enamalungelo angokomthetho (holding company), inkampani eyilungu leqembu lezinkampani noma inkampani yababambisene singazange sisayinwe noma sifakazelwe Isikhulu esiphathisiwe kanye noNgqongqoshe akakwazi ukuzinqumela ukuvumela ukungagcinwa komthetho maqondana nezimfuneko zezicelo ezinephutha.

Okwesithathu, isicelo siyohlolwa ukuze kutholakale ukuthi umenzi wesicelo uyahlangabezana yini nezimfuneko ezidingekayo zokubamba iqhaza emkhakheni. Isikhulu esiphathisiwe kanye noNgqongqoshe akakwazi ukuzinqumela ukuvumela ukungagcinwa komthetho maqondana nezimfuneko ezidingekayo zokubamba iqhaza kulo mkhakha. Izimfuneko ezidingekayo ziyahlukahluka kuye ngomkhakha abenzi bezicelo abakuwo. Ngokwesibonelo, enqubweni yangaphambili yokwaba yabatshuzi be-abalone, abenzi bezicelo kwakudingeka babonise, phakathi kokunye, ukuthi umenzi wesicelo ungumtshuzi ofanelekayo futhi ogunyazwe njengoku-Class I (nge-surface supply), II noma III we-Commercial Diver ngaphansi komthetho 14 owakhishwa ngaphansi koMthetho ka-1993 we-Occupational Health and Safety (GN Regulation 10 of 11 January 2002).

(ii) I-balancing criteria: abafaki zicelo abasha nabanikazi bamalungelo besikhathi esijana (medium term right holders).

Izicelo ezafakwa ngendlela efanele, ezingenamaphutha futhi ezihlangebezana nezimfuneko ezibalulekile ziyobekwa ezilinganiswe ngokuvumelana nendinganiso ye-balancing criteria. I-balancing criteria iyolinganiswa ngezinjongo zokukala abenzi bezicelo. Enye yale ndinganiso, njengezinguquko, iyosebenza kuyo yonke imikhakha, kuyilapho ezinye ziyosebenza emikhakheni ethile kuphela.

Izicelo ezivela kubanikazi bamalungelo abanesikhathi esijana (medium right holders) ngeke zilinganiswe (scored) ngokuvumelana nendinganiso efana neyabasethubeni lokuba abafaki zicelo abasha futhi ziyolinganiswa ngokuhlukaniswa. Kuyobe sekunqunywa ujuqu kwenziwa ngokwehluka kwabanamalungelo esikhashathi esijana nabangabafaki zicelo

abasha. Bonke abafaki zicelo abane-sko esilinganayo noma esingaphezu kwesiwujuqu bazokwabelwa amalungelo okudoba.

(iii) Izici eziwumnqamula-juqu (tie-breaking factors)

Uma kunabenzi bezicelo abanengi abalinganisene ngamaphuzu, isikhulu esiphathisiwe singase sisebenzise indinganiso ewumnqamula-juqu, ukuze kukhethwe phakathi kwabenzi bezicelo abane-sko esifanayo. Izici eziwumnqamula-juqu zingase zihlanganise ukubekwa esikalini kwendinganiso engafinyelelwanga nefinyelelwe (*criteria not scored or scored*).

(b) Indinganiso ezosetshenziswa ukuze kwabiwe isilinganiso sezinhlanzi ezingadotshwa noma umzamo okumelwe wenziwe (quantum or effort)

Kunezinqumo ezimbili ezingafani. Ngemva kokuba kwenziwe izinqumo eziyocacisa ukuthi yibaphi abenzi bezicelo abaphumelele, isikhulu esiphathisiwe siyonquma ngokwabiwa kwe-quantum noma i-effort kumenzi wesicelo ngamunye ngokuvumelana nenqubomgomo echazwe esigabeni 7.2 ngezansi.

INGXENYE C: IZINYATHELO EZIQONDILE ZENQUBOMGOMO ZOKWABIWA KWAMALUNGELO

7. Izinyathelo Zenqubomgomo

Le Nqubomgomo kumelwe ifundwe kanye nezinqubomgomo eziqondene nezindawo zokudotshwa kwezinhlanzi emkhakheni ngamunye wokudotshwa kwezinhlanzi. Lena yamuva yiyona eyobhekwa njengewumnqamula-juqu kuneyokuqala, uma iqondene ngqo nomkhakha othile wokudoba.

Izinyathelo zale nqubomgomo ezihlelwe ngezansi, kanye nolwazi olugciniwe oluhlanganiswe ngemva kokuba kwamukelwe izicelo, kuyiqondisa isikhulu esiphathisiwe ekwakheni i-exclusionary criteria, i-balancing criteria eningiliziwe yabanikazi bamalungelo esikhathi esijana kanye nabasethubeni lokuba ngabanikazi bamasheya abasha kanye nezici eziwumnqamula-juqu (tie-breaking factors) Izinqubomgomo eziqondene nezindawo zokudoba izinhlanzi ziyohlinzeka ngezinye iziqondiso ezengeziwe kulokhu.

Le Nqubomgomo kanye nezinye izinqubomgomo eziqondene nezindawo zokudotshwa kwezinhlanzi azikukethe imithetho yamaMede namaPheresiya futhi azihlanganisi zonke izici kanye nezinyathelo eziyocatshangelwa ekunqumeni nasekusebenziseni indinganiso yokulingalinganisa (balancing), ewumnqamula-juqu (tie-breaking) nasekunqumeni i-quantum noma umzamo (effort). Izikhulu eziphathisiwe ziyogunyazwa ukuba zakhe futhi ziphucule indinganiso uma nje lezi zinamathele futhi zivumelana nemithetho esebenzayo, le Nqubomgomo kanye nezinye izinqubo mgomo eziqondene nezindawo zokudoba izinhlanzi.

Ngale kokuba kuboniswe emafomini okwenza isicelo, ngukwaziswa okuphathelele nomenzi wesicelo kuphela okuyocatshangelwa. Maqondana nezinguquko, ukwakhiwa kwamathuba emisebenzi notshalo-mali kanye nezinye izici eziphawuliwe, abenzi bezicelo abakha ingxenye yezinkampani noma izinkampani zababambisene, kungase kudingeke ukuba bafake ukwaziswa ngeqembu noma ababambisene nabo ebhizinisini (futhi kungabi ukwaziswa kowenza isicelo kuphela).

7.1 Ubude besikhathi selungelo

Amalungelo athatha isikhathi eside okudoba izinhlanzi ayonikezwa kuzo zonke izindawo zokudoba izinhlanzi ngenjengo yezentengiselwano, inkathi engaba yiminyaka engu-15, ngaphandle kwasezindaweni zokudoba ama-Oysters nama-White Mussel, ezisanda kuqala ukuthuthukiswa/ukwakhiwa.

Ubude besikhathi samalungelo buyonqunywa, phakathi kokunye, yizinga lezinguquko esenziwe endaweni yokudoba izinhlanzi, ulwazi lwamanje ngesimo sempilo nendawo ezungezile yohlobo lwezinhlanzi ezisengozini yokuqothulwa; umnotho wendawo yokudoba kanye nesidingo sokukhuthaza ukuba kutshalwe izimali futhi kukhuthazwe ukukhula ngokomnotho, kanye nokuzikhandla kwababambe iqhaza endaweni yokudoba.

7.2 Uhlobo lomnini lungelo

Ingxenye 18 ye-MLRA ithi ngabantu baseNingizimu Afrika kuphela abanganikezwa amalungelo okudoba izinhlanzi. Ingxenye 1 yoMthetho ichaza umuntu waseNingizimu Afrika ngokuthi yisakhamuzi saseNingizimu Afrika noma inkampani, i-*close corporation* noma i-trust. Ngakho-ke, amalungelo okudoba awanakwabelwa izinhlangano/izinkampani ezinjengama-partnership, ama-association, ama-joint venture, izinhlangano zomphakathi noma ama-co-operative.

Ngokwemibandela yale nqubomgomo, amalungelo okudoba ngenjongo yezentengiselwano ku-Cluster C no-D ayonikezwa kuphela abantu ngabanye (abantu bendabuko), ngaphandle kwasemikhakheni ye-Hake Handline ne-KZN Beach Seine, lapho ama-*close corporation* eyowafanelekela khona amalungelo. Abantu abebengamalungu ama-*close corporation*, abanikazi bamasheya bezinkampani nabanini mafa bama-trust lapho lezi zinkampani zabo zabelwa amalungelo esikhathi esijana (medium term rights) ngo-2001 nango-2002 ku-Cluster C no-D (ngaphandle kwe-Hake Handline ne-KZN Beach Seine) bayocatshangelwa ukuba babe ngabanini malungelo esikhathi esijana ngenjongo yokunikwa izabelo zamalungelo ahlala isikhathi eside. Isikhulu esiphathisiwe singase sibheke abanye abantu njengabangabanini malungelo esikhathi esijana uma, ngokwesibonelo, beye bagunyazwa ukuthola ilungelo lesikhathi esijana (medium term right), ngokudluliswa okugunyazwe yisikhulu esiphethe.

Ngokwemibandela yale nqubomgomo, amalungelo okudoba ngenjongo yezentengiselwano ku-Cluster A no-B ayonikezwa kuphela izinkampani ezibhaliswe ngokwemibandela yoMthetho wezinkampani ezingama-*Close Corporations* ka-1984 noMthetho 61 Wezinkampani ka-1973. Abanini malungelo esikhathi esijana (medium term) abebesebenza njengama-trust noma ama-co-operative noma ama-sole proprietorship, kumelwe bathathe izinyathelo zokushintsha babe ama-*close corporation* noma babe yinkampani ngaphambi kokuqalisa kwenqubo yokwaba futhi bakhethe le nkampani entsha

njengomenzi wesicelo. I-*close corporation* ekhethiwe noma inkampani iyobhekwa njengomnini lungelo, kuye ngokuthi lowo menzi wesicelo uyabonisa ukuthi le-*close corporation* noma inkampani izoba ngumlandeli ozimele womnini lungelo wangaphambilini. Inkampani entsha izonikezwa ilungelo futhi ngeke libe elomuntu oyedwa noma i-trust. Le nqubomgomo ayisho ukuthi i-trust iyavinjelwa ekubeni ngumnini masheya kumenzi wesicelo noma kumnini malungelo.

Kwezinye izindawo zokudoba izinhlanzi, abenzi bezicelo bayokhuthazwa ukuba bahlangane noma ukuba bahlanganyele imithombo yamandla ngemva kwenqubo yokwaba. Eminye imininingwane iyahlinzekwa ezinqubweni mgomo eziphathelele nezindawo zokudotshwa kwezinhlanzi.

7.3 Izinguquko:

I-MLRA idinga ukuba abenzi bezinqumo basazise isidingo sokuhlela kabusha imboni yokudotshwa kwezinhlanzi ukuze ukungalingani kwangesikhathi esidlule kubhekwane nakho futhi kufinyelelwe ukulingana ngaphakathi kwawo wonke amagatsha emboni yezokudoba izinhlanzi. Izinguquko futhi ziyisinyathelo esifanelekile somthetho-sisekelo eNingizimu Afrika. UMthetho 53 ka-2003 Wokufukulwa Kwabampisholo Ngokomnotho Osekelwe Embonweni Obanzi ungeline lamathuluzi omthetho aqinisa lesi sinyathelo esifanelekile somthetho-sisekelo. Lo Mthetho uthi uNgqongqoshe Wezohwebo Nezimboni angase ngokukhipha isaziso kuSomqulu akhiphe imithetho yokusebenza okuhle ekhuthaza ukufukulwa kwabampisholo ngokomnotho. Amakhodi awuhlaka kwezinye izici aye anyatheliswa ukuze umphakathi usike elijikayo. La makhodi ahlinzeka nge-*"khadi le-sko elilinganiswe kahle"* ukuze kulinganiswe intuthuko kanye nesimo ngaphakathi ezinkampanini njengoba ukwamukelwa komthetho wezinguquko emikhakheni ethile yezomnotho kwenziwa ngabanikazi bamasheya abakhulu kuleyo mikhakha.

Lo Mthetho kanye namakhodi awuhlaka acatshangelwa lapho kwakhiwa le nqubomgomo kanye nezinye ezinqubomgomo eziphathelele nezindawo zokudotshwa kwezinhlanzi. Nokho, ngenxa yesimo senqubo yokwabiwa kwamalungelo, uNgqongqoshe Wezemvelo Nezokuvakasha akazange kuze kube yimanje akhuthaze ukwamukelwa kwezincwadi zamalungelo (*charters*) ezigunyaza imikhakha yokudoba izinhlanzi futhi akazange amukele izindinganiso nemicikilisho ehlelwe ekhodini yohlaka ephathelene nobunikazi okuphatha. Lapho saba amalungelo okudoba, isikhulu esiphethe siyabizwa ukuze siqhathanise abenzi bezicelo omunye komunye, kunokuba siqhathanise ngendinganiso ecatsangelwayo ebekiwe. Izinguquko ziyisinyathelo esibaluke kakhulu kule nqubo yokuqhathanisa kokulinganisa. Le nqubo isamqhudelwano futhi akukho *"ndinganiso"* engabekwe kusengaphambili. Emkhakheni ongaguquliwe ngokwanele, abenzi bezicelo abaneziko eziphezulu zokuguqula kunabanye ngaso sonke isikhathi bayoba sethubeni elingcono lokwabelwa amalungelo noma isabelo esikhudlwana se-TAC noma i-TAE. Inqubomgomo iwukuthi phakathi naleyo nqubo yokuqhudlwana, ukwamukelwa kwencwadi yamalungelo (*charter*) noma izindinganiso akuyona ngaso sonke isikhathi indlela yokuthuthukisa ukuxhumana efanele.

Inqubomgomo iwukuba kuthuthukiswe izinguquko futhi kuthuthukiswe amazinga ezinguquko ezifinyelelwayo phakathi nokwabiwa kwamalungelo esikhathi esijana (medium-term rights). Enqubweni yokwabiwa kwamalungelo ayothatha isikhathi eside (long term), yizinguquko eziyoletsa inzuzo kuphela eziyoqashelwa, okungukuthi, izinguquko ngempela eziyoba nomthelela omuhle noyobazuzisa abantu abaphundiwa wuhulumeni wobandlululo.

Abantu abaphundiwa nguhulumeni wobandlululo embonini yokudoba izinhlanzi ngabantu abancishwa amalungelo ngenxa yohlanga lwabo. Kuyadingeka futhi kuyafaneleka ukuba kukhuthazwe ukubamba iqhaza kwabantu abanjalo ababeshayelwa amakhala nguhulumeni wobandlululo emagatsheni ezimboni zokudoba izinhlanzi. Kuyadingeka futhi ukuba ukungalingani okungokomlando kubhekwe futhi kubhukulwe ukuze kufinyelelwe ukulingana ngaphakathi kwale mboni yokudoba izinhlanzi, kubhekwe ngisho nokubamba iqhaza kwabesifazane, njengoba nabo babeshayelwa amakhala esikhathini esidlule. Ezinqubweni zokwabiwa kwamalungelo lungase lufakelwe izibuko udaba lohlanga nobulili babenzi bezicelo, nodaba lwabantu abavunwa ngumthetho, uhlanga nobulili bamalungu angabanikazi bamasheya afake izicelo, abaphathi, abaphakeli nezisebenzi. Lokhu kuzokwenziwa ngendlela echazwe ngezansi. Ngaphezu kwalokho, utshalo-mali lwezinkampani ezithuthukisa umphakathi luyocatshangelwa ngendlela echazwe ngezansi.

Ku-Cluster A, abenzi bezicelo kuyodingeka baqashe abagcini-mabhuku ezimali (external auditors) bangaphandle ukuze baqinisekise ukuthi ukwaziwa abakufakayo ngokuvumelana nemibandela yezinqubo ezinikeziwe kuyiqiniso.

(a) Uhlanga

Abantu esikhathini esidlule abebefakwa ngaphansi kwalolu hlu "*African (Ompisholo)*", "*Ikhala (abebala)*", "*INdiya*", bayobhekwa njengababeshayelwa amakhala nguhulumeni wobandlululo ngenhla yohlanga lwabo, kuye nangokuthi bayizakhamuzi zaseNingizimu Afrika yini ngokozalo noma baye bathola imvume yokuba yizakhamuzi ezisemthethweni ngaphambi komhla ka-27 Ephreli 1994.

Kuma-Cluster C no-D, inani elinqunyiwe lamaphuzu liyokwabelwa abenzi bezicelo abampisholo. Lapho ama-close corporation efaneleka khona (i-hake handline ne-KZN Beach Seine), umenzi wesicelo we-close corporation uzonikwa isilinganiso samaphesenti esabiwe ngokuvumelana nesilinganiso samalungu ampisholo atholwa ngabampisholo kuyi-close corporation. **Kuma-Cluster C no-D** kungase futhi kucatshangelwe bakhona yini abaphathi abampisholo kuleyo nkampani, kuyaqashelwa yini ukulingana kwabantu emsebenzini, bayathuthukiswa yini abampisholo futhi iyazitshala yini izimali ngenhloso yokuthuthukisa umphakathi.

Kuma-Cluster A no-B, amaphuzu ayokwabelwa abangabanikazi bemisebenzi nabangabaphathi abampisholo, ngendlela echazwe lapha ngezansi.

(i) Ubunikazi

Kuyohlolwa futhi kucatshangelwe nokuthi abenzi bezicelo abampisholo banobunikazi obuyinzuzo yini, ngohlobo lwamalungelo okuvota angabekelwe mingcele kanye nezithakazelo ezingokomnotho eziqinisekile nobunikazi obubhekela ukulingana. Ekunqumeni ukuthi amalungelo okuvota nezithakazelo ezingokomnotho "*azibekelwe mingcele*" izikhulu eziphathisiwe zingase zibhekisele ohlakeni i-Code 100, olwashicilelwa ngokwemibandela yoMthetho Wokufukulwa

Kwabampisholo Ngokomnotho Osekelwe Embonweni Obanzi. Ukulinganisa okuhlelwe kulo Mthetho (Code) ngeke kusetshenziswe.

Isimiso se-*flow-through*, esihlongozwe ku-Code 100, singase sisetshenziswe uma kudingekile. Ngokwesibonelo, uma inkampani A ino-20% wamasheya enkampanini B futhi inkampani A inabantu bamaqembu ezinhlanga aphawuliwe abanobunikazi buka-10% kuyo, ingxenye yayo eyinikelayo ingu-2% wobunikazi bomnotho wabo enkampanini B yalawo maqembu. Uma inkampani A ibino-55% wamasheya enkampani B futhi inkampani A ibingu-60% ongowabantu abansundu, inikela ngo-33% wobunikazi bomnotho wabantu abansundu enkampanini B.

Amanye amaphuzu angase abiwe kulabo benzi bezicelo abaye baphumelela ekufukuleni izisebenzi ngezinhlelo zokubamba iqhaza, kuye ngokuthi umenzi wesicelo angabonisa yini ukuthi izisebenzi ziye zathola izinzuzo zangempela (njengesabelo sezimali esibhekile) kulolo hlelo (scheme).

Odabeni lwabenzi bezicelo zamalungelo esikhathi esijana (*medium term*) [kungakhathaliseki ukuthi bayaphumelela noma abaphumeleli], amaphuzu angase abiwe ngokuvumelana nakho kokubili isimo samanje nentuthuko esiyenziwe. Isikhulu esiphathisiwe singase sibeke isilinganiso sezinguquko okumelwe zifinyelelwe zokufinyelela inani eliphezulu lamaphuzu obunikazi babampisholo. Izinkampani ezifinyelele isilinganiso esiphakeme samaphuzu obunikazi babansundu zizobe seziklonyeliswa ngokuvumelana naleso silinganiso esifinyelelwe.

(ii) Abaphathi

Kuyocatshangelwa futhi nokuthi abantu abansundu banazo yini izikhundla zobuphathi eziphezulu zokuqondisa. Izikhundla zobuphathi eziphezulu zokuqondisa zimane zichaza labo bantu abanomthwalo wemfanelo wokuqondisa ukusebenza kwenkampani futhi ababika ngokuqondile kumqondisi ophethe (managing director) noma iBhodi labaqondisi. Ngezinjongo zenqubo yokwabiwa kwamalungelo esikhathi eside, ubuphathi bomenzi wesicelo buyohlolwa ngezindlela ezintathu. Okokuqala, ukwaziswa okufakwe emibikweni yokulingana emsebenzini kuyocatshangelwa, uma kukhona. Uma kungekho, abenzi bezicelo bayocelwa ukuba bafake ukwaziswa okufanayo. Okwesibili, kuyocatshangelwa futhi nokuthi ngobani abakha ibhodi labaqondisi baleyo nkampani. Okwesithathu, abenzi bezicelo kuyodingeka bafake ukwaziswa maqondana nalabo abahola imiholo ephhezulu enkampanini yomenzi wesicelo.

(b) Ubulili

Uma kufaneleka, ubunikazi nobuphathi babesifazane nabo buyocatshangelwa kuma-**Cluster A no-B**. Kuma-**Cluster C no-D**, ubulili nabo bungase bucatshangelwe, ngokwesibonelo, njengesici esiwumnqamula-juqu.

(c) Ukulingana Emsebenzini

Abenzi bezicelo umthetho odinga ukuba benze ngokuvumelana noMthetho 55 ka-1998 Wokulingana Emsebenzini kumelwe babonise ukuthi bayavumelana nale mfuneko. Inani labantu abansundu nabesifazane abaqashwe ngumenzi wesicelo nalo lingase libe indinganiso engeke ishalazelwe (balancing criterion). Amaphuzu amaningi ayokwabelwa umenzi wesicelo oqashe abampisholo nabesifazane ezikhundleni eziphezulu futhi abahola kahle noma abasezikhundleni zobuchwepheshe nezidinga abanamakhono omsebenzi, kunomenzi wesicelo obaqashele ukuba yizisebenzi ezivamile nezisezikhundleni ezingadingi makhono. Ngokwesibonelo, abenzi bezicelo kungase kudingeke ukuba babonise amaphesenti abantu abansundu nabesifazane abaphezulu ngo-10% womholo oholwayo, abaphakathi kuka-10% no-30% ophezulu, abaphakathi kuka-30% ophezulu no-50% ophezulu, nabangaphansi kuka-50% ophezulu, noma babonise inani labantu abansundu nabesifazane abamiswe ezikhundleni zabawufundele umsebenzi nabanamakhono awo. Amaphuzu amaningi ayokwabelwa lezo zinkampani ezinabantu abampisholo nabesifazane abahola kakhulu kunalabo abahola kancane futhi amaphuzu amaningi ayokwabelwa lezo ezimise abantu abansundu nabesifazane ezikhundleni ezidinga abanamakhono afundelwe kunalezo ezibamise ezikhundleni abangadingi makhono kuzo. Ngenxa yokuhlelwa ngokobuhlanga kwezisebenzi eNingizimu Afrika, ukwehlukahluka kwemihlo nakhokungase kucatshangelwe.

(d) Ukuthuthukiswa Kwamakhono

Abenzi bezicelo kuyodingeka babonise ukuthi benza ngokuvumelana noMthetho 97 ka-1998 Wokuthuthukiswa Kwamakhono kanye noMthetho 9 ka-1999 we-Skills Development Levies. Uma umenzi wesicelo ebambe iqhaza ezinhlelweni zokuxhasa ukuthuthukiswa kwamakhono noma echitha izimali eziningi ekuqeqeshweni kwabampisholo, lesi sici naso singacatshangelwa.

(e) I-Affirmative Procurement

I-affirmative procurement (ukuthenga nokusebenzisa izinkampani zabansundu) nakho kungacatshangelwa njengesici esinqumayo.

(f) Utshalo-mali Lwezinkampani Ngenjongo Yokuzuzisa Umphakathi (Corporate Social Investment)

Kungase kucatshangelwe nokuthi inkampani iye yasebenzisa amaphesenti angakanani enzuzo intela isikhishiwe otshalweni lwemali ngenjongo yokuzuzisa umphakathi phakathi nenkathi yamalungelo angaphambilini. Iminikelo edonswa intela iyofakwa ohlwini lotshalo-mali oluletha inzuzo emphakathini kodwa neminye iminikelo ingase icatshangelwe.

7.4 Ukuhileleka emikhakheni eminingi

Eqinisweni, akuwona umgomo wale nqubomgomo ukuvimbela noma ukwenqabela ukuba namalungelo okudoba endaweni yokudoba engaphezu kweyodwa. Lokhu kuyoya ngezimo ezimbili ezihlukile.

Okokuqala, abanikazi bamalungelo ezindaweni zokudoba ku-**Cluster A no-B** (kubandakanya ukulawula ubunikazi bamasheya noma amalungu namalungu amaqembu abaphathi babo) ngeke bavunyelwe ukuba namalungelo ezentengiselwano ezindaweni zokudoba eziku-**Cluster C no-D**, okuyizindawo zokudoba ezigcinelwe izinkampani ezincane neziphakathi nendawo futhi abadobi abangabodwana bancike kulezo zinhlanzi ukuze baziphilise. Abanikazi bamalungelo ku-**Cluster C no-D** abaqonde ukuthola amasheya noma izinzuzo ku-**Cluster A no-B**, ngemva kokwabelwa bangase bavunyelwe ukuba badlulisele amalungelo abanawo ku-**Cluster C no-D** kwabanye abantu. Izikhulu eziphathisiwe zokudluliswa kwamalungelo ziyocabangela izicelo zokudluliswa okunjalo kwamalungelo.

Okwesibili, abanikazi bamalungelo ngeke bavunyelwe ukuba babe namalungelo endaweni yokudoba engaphezu kuka-**Cluster C noma u-D**, ngaphandle kokuthi:

- ❑ Abanikazi bamalungelo bangase babe nanoma iyiphi inhlanganisela yala malungelo: i-white mussel, i-west coast rock lobster (eduze kogu) ne-netfish (i-Gill ne-Treknet kanye neBeach Seine);
- ❑ Ungase ube nalo ilungelo le-Beach Seine yakwa-KZN kanye nele-oyster ngesikhathi esifanayo.

7.5 Ukuqinisa

Phakathi kuka-1994 no-2004, inani labanikazi bamalungelo ezindaweni zokudoba ngenjongo yezentengiselwano landa ngendlela ephawulekayo. Lapho kwabiwa amalungelo, kwakunesidingo esikhethekile sokuvumela abantu ababebasha kule mboni, ikakhukazi labo ababevela emikhakheni yomphakathi owawushayelwa amakhala ngaphambilini. Ngenxa yalokhu, emikhakheni eminingi kukhona ukumelelwa ngokwezibalo kwamazinga alaba banikazi bamasheya ababeshayelwa amakhala ngaphambilini. Kodwa ukumelelwa ngokwezibalo kwalaba akuvezi ngaso sonke isikhathi ngokucace kabanzi ukubamba iqhaza kwalaba bantu abanomlando wokushayelwa amakhala nguhulumeni wobandlululo embonini yokudotshwa kwezinhlanzi. Ukuqiniswa kwabanikazi bamalungelo kuye kwaba okudingekile kunokuba kwandiswe abanikazi, ukuze kuthuthukiswe ukubamba iqhaza okuphumelelayo.

Ukuqinisa futhi kubalulekile ukuze imboni yenziwe ngcono kakhulu, ukuze kuthuthukiswe ukubambisana futhi kuncishiswe imithwalo nezindleko kuMnyango nakubanikazi bamalungelo. Lokhu kusho ukuthi kuncishiswe isibalo sezinhlangano/izinkampani, ikakhulukazi lezo ezinabanikazi bamasheya abafanayo kanye neqembu labaphathi abaphezulu kanye namakheli omgwaqo afanayo kuleyo ndawo yokudoba izinhlanzi. Emikhakheni eminingi, kuzoba nezikhathi zokuhlola ngemva kwenqubo yokwaba lapho uNgqongqoshe ezowabheka ngokuwacabangela amafomu okuqinisa, angakubhekeli phansi ukwenziwa kwezinguquko. Enqubweni yokwabiwa kwamalungelo athatha isikhathi eside, abanikazi bamalungelo esikhathi esijana ngeke bavunyelwe ukungena emkhakheni ofanayo ngokwenza izicelo zokuthola amalungelo afanayo bezibiza ngelinye igama elihlukile futhi ngeke baba ngabanikazi bamasheya bezicelo zabasanda kubhalisa.

7.6 Abasanda kubhalisa

Indaba yabasanda kubhalisa iqondene nezindawo zokudoba izinhlanzi futhi iyosingathwa ngaphansi kwezinqubomgomo eziqondene nezindawo zokudoba izinhlanzi. Kwenziwa umehluko, kulezi zinqubomgomo eziqondene nezindawo zokudoba, phakathi kwababhalisela "*ukwengezwa*" kanye '*nabasanda kubhalisa*'. Ukuze kuvunyelwe ukubamba iqhaza kwababhalisele *ukwengezwa* inani lababambe iqhaza emkhakheni kuzomelwe landiswe lisuka esibalweni esikhona njengamanje. Eqinisweni, ngeke sibe khona isikhala sokucabangela abenezelwayo ngoba izindawo eziningi zokudoba njengamanje sezinesibalo sababhalisile esingaphezu kwesidingekayo. Nokho, *abasanda kubhalisa* bangase bacatshangelwe lapho kufakwa abathile esikhundleni sabenzi bezicelo abangenampumelelo. Lokhu kuzokwenziwa uma abanikazi bamalungelo bamanje beye bahluleka ukwenza izingququko ezigculisayo, noma uma abanikazi bamalungelo beye bahluleka ukusebenza noma ukutshala izimali ngendlela eyanelisayo, noma uma umzamo wamanje ngaphakathi endaweni yokudoba kucatshangwa ukuthi ungaphansi kwesilinganiso esamukelekayo. Kweminye imikhakha, ukuze kuqiniseke abanikazi bamalungelo emkhakheni, inani lababambi qhaza lizoncishiswa ngokungabaniki amalungelo abanikazi bamalungelo abanezikó (scores) eziphansi, nokungafaki abanye abasha esikhundleni sabo.

Njengomthetho obekiwe, lo Mnyango ngeke uvumele abanikazi bamalungelo abaye bathengisa noma ngandlela thile balidela ilungelo lokudoba izinhlanzi ukuba baphinde bangelele ibhizinisi lokudoba izinhlanzi. Kusebenza isimiso esifanayo nakubanikazi bamasheya noma amalungu ezinkampani ezingama-close corporation abathengisa isheya eliphawulekayo lobunikazi belungelo.

7.7 Ukusebenza

Ukusebenza kwabanikazi bamalungelo bamanje kungase kuhlaziye ngendlela echazwe ngezansi.

(a) Ukuphumelela ngokwezimali

Ukuphumelela ngokwezimali komenzi wesicelo kungase kuhlaziwe ngokwemibandela yezilinganiso zezimali eziyofakazelwa yizitatimende zokubalwa kwezimali ngabagcini mabhuku. Izitatimende zezimali zingase futhi zisetshenziswe ukuze kunqunywe ukuthi ngobani ngempela abayizindalifa zesabelo (isimiso se-"*follow-the-buck*") nokunquma ukuthi umnikazi welungelo uzitshalile yini izimali zemboni yakhe.

(b) Ukukhokhwa kwezintela

Abenzi bezicelo kuzodingeka ukuba banikeze isiqinisekiso sokuthi abasalele emuva ekukhokheni izintela zabo zezinhlanzi abaye bazidoba phakathi nenkathi yamalungelo esikhathi esijana (medium term rights). Uma kuwukuthi umenzi wesicel ubekweleta izintela inkathi edlule yeqa ngezinsuku ezingu-60, angase ahlawuliswe. Nokho uma kungenzeka umenzi wesicelo aphumelele ekunikweni ilungelo, uMnyango ngeke ukhiphe imvume kuze kube yilapho esekhokhe yonke imali ayikweletayo.

(c) Ukuvumelana nomthetho

Abenzi bezicelo abanamacala amabi okwephula imithetho ye-MLRA, iziQondiso, imibandela yezimvume namanye amacala ahlobene nokudotshwa kwezinhlanzi, phakathi nenkathi besanikezwe ilungelo lesikhathi esijana lokudoba (medium term), bangase babekelwe eceleni. Ukwephulwa kwemithetho okuncane, kuhlangukise nokukhokha kwezinhlawulo zamacala zokukhokheka ukubhalisa, kungase kucatshangelwe njenge-*balancing criterion*.

Imikhumbi/izikebhe ezifakwe ezinhlanzi ezinegama elibi kunoma iyiphi i-Regional Fisheries Management Organisation ("RFMO") ngeke ivunyelwe ukudoba izinhlanzi. Abenzi bezicelo abangabanikazi (ngokugcwele noma ngokwengxenywe) noma abakhetha imikhumbi/izikebhe ezisohlwini lwabanamagama amabi bayokwenqatshwa.

Amarekhodi omnyango aphaathelene namacala okwephula imithetho ye-MLRA iyokwenziwa itholakale ukuze ihlolwe ngaphambi kokuba kwenziwe inqubo yokwaba.

(d) Umsebenzi wokudoba

Umsebenzi wokudoba kwabanikazi bamalungelo besikhathi esijana ungase uhlolwe ukuze kutholakale ukuthi lowo menzi wesicelo uye walisebenzisa kahle yini ithuba lokudoba izinhlanzi. Abenzi bezicelo abangazange badobe nhlanzi phakathi nenkathi yokudoba noma abangazange bayilande imvume phakathi nayo yonke leyo nkathi yonyaka bangase babekelwe eceleni. Ukubamba izinhlanzi ezingaphansi kwesibalo noma ukubamba ngokweqile kungase kusetshenziswe njengezindinganiso okuyolinganiswa ngazo emikhakheni ethile ngenkathi yokwaba (balancing criteria).

Imibhalo egciniwe (amarekhodi) yoMnyango ephaathelene nezinzuzo ekudobeni iyokwenziwa itholakale ukuze ihlolwe ngaphambi kokuba kwabiwe amalungelo, uma izosetshenziswa enqubweni yokwaba.

7.8 Utshalo-mali

Ukutshala izimali ngokusetshenziswa komkhumbi/isikebhe esikhethelwe ukuba sidobe izinhlanzi kanye nezinye izimpahla kuyiqashelwa uma nje lolo tshalo-mali lubonisa inhloso eqotho yokubamba iqhaza emkhakheni. Ubunikazi bamasheya esikebheni/emkhunjini ngemandlana encane noma ukungakhokhi lutho komenzi wesicelo ngeke kubhekwe njengotshalo-mali. Izinga lotshalo-mali liyohlolwa kucatshangelwa i-*quantum* eye yafinyelelwa phakathi nokwabiwa kwamalungelo esikhathi esijana.

7.9 Ama-Paper quota

Isikhulu esiphathisiwe kumelwe senze umzamo wokuvimbela abenzi bezicelo abangama-paper quota ekungeneleni le mboni nokuthi bawaphuce amalungelo lawo ma-paper quota anamalungelo. Ama-paper quota awayihloniphi imigomo yenqubo yokwabiwa kwamalungelo.

(a) Abasanda kubhalisa

Enqubweni yesikhathi eside yokwabiwa kwamalungelo, isikhulu esiphathisiwe siyobabekela eceleni abenzi bezicelo ababonakala bengaba yingozi yokuba ngama-paper quota. Ngenxa yale njongo, isikhulu esiphathisiwe siyobheka umenzi wesicelo ngengoyi-*"paper quota risk"* uma lowo menzi wesicelo ebonakala engenayo inhloso eqotho yokuzidela ngokubamba iqhaza ngokuhlanganyela ngokugcwele emkhakheni, ikakhulukazi uma ingozi ikhona yokuthi umenzi wesicelo akazange asifake isicelo ukuze angenele le mboni kodwa ukuze athole inzuzo ethile ngokwezimali ngaphandle kokuhileleka ngokuqondile emisebenzini eyinhloko ehlangene nokusebenzisa noma yiliphi ilungelo angase alinikwe. Ekunqumeni ukuthi umenzi wesicelo omusha uyingozi yokuba yi-*"paper quota risk"*, izimpahla kanye namandla okuthola imali kanye nohlelo lwayo lwezezimali nezebhizinisi kanye nezibopho kufanele kufakelwe izibuko.

Izikhulu eziphathisiwe ziyobashaya indiva abenzi bezicelo futhi zibabheke njengama-*"paper quota risk"* abacatshangelwa *'njengopopayi'* abathunyelwe njengokungathi baneqhaza ezinkampanini okungezona ezabo. Ubupopayi (*fronting*) lobu benzeka, isicelo senziwa ngomunye umuntu/inkampani ukuze kubalekelwe ukuhlangabezana nezimfuno zenqubomgomo. Isibonelo salokhu yisicelo esifakwe yinkampani eyenze izinguquko-mbumbulu ngenhloso yokuba izinzuzo eziyinhloko zidluliselwe enkampanini engazenzanga izinguquko noma abantu okungebona abampisholo.

(b) Abanikazi bamalungelo besikhathi esijanyana (medium term)

Izikhulu eziphathisiwe ziyobashaya indiva futhi abanikazi bamalungelo esikhathi esijana abangama-paper quotas. Ngenxa yale njongo, izikhulu eziphathisiwe ziyobabheka njengama-paper quotas, abanikazi bamalungelo esikhathi esijanyana abanamarekhodi angacacile noma okungenzi lutho kuhlanganisa nokungatshali zimali noma ukungahileleki emisebenzini.

Izikhulu eziphathisiwe ziyobashaya indiva futhi *"opopayi"* futhi ngenxa yalesi sizathu bazosebenzisa isimiso se-*"follow the buck"* ukuze banqume ukuthi azibalekelwanga yini izimfuno zenqubomgomo. Ngokwesibonelo, izikhulu eziphathisiwe ziyofuna ukuthola ukuthi abanikazi bamalungelo abaguqulwe-mbubulu baye eqinisweni bazifaka yini izinzuzo ezingokwezimali kubanikazi bamasheya noma amalungu ampisholo. Lolu hlobo lokupopayisa ngele lwabelwe amalungelo.

Njengomthetho obekiwe, izikhulu eziphathisiwe ngeke zivumele abanikazi bamalungelo abaye bathengisa noma ngandlela thile balidela ilungelo lokudoba izinhlanzi ukuba baphinde bangenele ibhizinisi lokudoba izinhlanzi sebezibiza ngelinye igama.

(c) Ama-Cluster C no-D

Emikhakheni yama-Cluster C no-D, amaqembu amakhulu anezicelo ezifanayo noma ezithi azifane kakhulu axhaswa ngabanye abantu, ayobhekwa njengosopopayi abangama-paper quota. Eqinisweni ngeke kwabelwe ikhaya ngalinye ilungelo elingaphezu kwelilodwa. Kule mikhakha, abenzi bezicelo kuzodingeka badalule ubuhlobo babo nabanye abenzi

bezicelo abakulo mkhakha. Uma ilungu elingaphezu kwelilodwa lenza isicelo sokuthola ilungelo, zonke izicelo zakulowo mndeni zingase zishayelwe amakhala, ngale kokuba abenzi bezicelo bebonisa ngokucacile nangendlela ekholisayo ukuthi bazimisele izinkampani ezihlukene ezingahlangene nakancane.

(d) Abanikazi bamalungelo bangesikhathi esizayo

Ngemva kwenqubo yokwabiwa kwamalungelo esikhathi eside, lo Mnyango uzozama ukuhoxisa amalungelo kubanikazi bamalungelo abangama-paper quota ngokusebenzisa ingxenye 28 ye-MLRA. Ngokwesimiso, lo Mnyango uzobaphuca amalungelo okudoba izinhlanzi ababambi qhaza abahluleka isidanasi ukusebenzisa leli lungelo.

7.10 Ukwenezela ukubaluleka

Ukwenezela ukubaluleka kusho leyo misebenzi enezela ukubaluleka okungokwezentengiselwano ezinhlanzini, kungakhathaliseki ukuthi lokho kubaluleka kufinyelelwa kwezohwebo zaseNingizimu Afrika noma zomhlaba woke. Ukunyezela ukubaluleka kungase kuvuzwe ngoba, phakathi kokunye, kukhuthaza ukwakhiwa kwamathuba emisebenzi nomnotho.

7.11 Ukuthuthukiswa kwezamabhezini

Ukuthuthukiswa kwamabhezini kuhlela izinyathelo zokwandisa ubunikazi babantu abampisholo, ukuphatha namakhono emabhezini asekhona noma amasha, kuhlenganise nezinhlelo zokutshalwa kwezimali kanye nokutholakala kwezimali. Lezi zinyathelo zingase zivuzwe kuye ngokuthi azihloselwe ukuzama ukubalekela ukuvikelwa kwezisebenzi ngokwesishaya-mthetho okukukethwe emithethweni yezisebenzi, yezempilo neyokuphepha.

7.12 Ukwakhiwa kwemisebenzi

Injongo eyinhloko yokwaba amalungelo esikhathi eside ukwakha isimo esiyokwenza kube lula ukwakhiwa kwamathuba emisebenzi, ngokuyinhloko, ukwakhiwa kwemisebenzi ehlala njalo nengcono kakhulu embonini yokudotshwa kwezinhlanzi.

Imisebenzi eyakhiwa ngabanikazi bamalungelo ahlala isikhathi esijana ngethani ngalinye abalabelwe kanye nokwanda kwemisebenzi ngenxa yokwabiwa kwamalungelo esikhathi eside, kuyovuzwa, okungenani kuma-cluster A no-B. Ukwakhiwa kwemisebenzi ehlala njalo kukhethwa ukwedlula imisebenzi yesikhathi esithile sonyaka futhi imisebenzi yesikhathi esithile sonyaka ikhethwa lapho abantu beqashwe ngesivumelwano (inkontileka).

7.13 Ukwencika kanye nokubamba iqhaza ezindaweni zokudoba

Umgomo oyinhloko wokwabiwa kwamalungelo ezindaweni zokudoba ku-**Cluster C no-D** ukunika amalungelo ukuze abantu bakwazi ukumisa amabhezini ezomnotho amancane futhi bazakhele imisebenzi yesikhathi esigcwele. Ukuncika ngokwezimali emalini etholakale ngokudoba kuyoba yisici esiyinhloko ezindaweni eziningi zokudoba ku-**Cluster C no-D**. Kuyoba yimfuneko ukuba umenzi wesicelo ahileleke yena siqu ekudotshweni kwezinhlanzi. Ikakhulukazi *“ukubamba*

iqhaza ekudobeni" ezindaweni zokuphaka nokuthulula izinhlanzi kuyoba yimfuneko ngomnikazi welungelo ezindaweni eziningi zokudoba ku-**Cluster C no-D**. Ngabenzi bezicelo abangakwazi ukubamba iqhaza kuphela ngenxa yokukhubazeka ngokomzimba abayokhululwa kule mfuneko. Abenzi bezicelo besifazane ngeke bakhululwe ekubambeni iqhaza ezindaweni zokuphakwa nokuthululwa kwezinhlanzi.

Abanikazi bamalungelo bamanje kuyodingeka banikeze isiqinisekiso sokwencika kwabo ngokuveza izitatimende ezingokwezimali nezintela ezikhokhiwe. Abasethubeni lokubhaliselwa ukudoba kuyodingeka banikeze ubufakazi bokwencika ngokuveza ukuhileleka kwabo esikhatini esidlule kulo mkhakha abawufakele isicelo noma ukuhileleka kwabo embonini yokudoba izinhlanzi.

7.14 Intuthuko engokomnotho yasendaweni kanye nobulungisa bokucatshangelwa kwezindawo zokudoba

Izikhulu eziphathisiwe zingase ziwuklomelise umzamo wokwehlisela izinhlanzi emathekwini olwandle angaphandle kwamadolobha amakhulu ukuze kuthuthukiswe intuthuko engokomnotho yasendaweni, nakuba kungase kungenzeki ukufinyelela lo mgomo kuzo yonke imikhakha. Ukuze siqinisekise ukuthi yonke imiphakathi edobayo ibamba iqhaza kulo mthombo wamandla, izikhulu eziphathisiwe zingase zisebenzise indawo eyisikhumulo njengendinganiso yokuthola amaphuzu noma ewumnqamula-juqu (tie-breaking criteria). Ngaphezu kwalokho, lo Mnyango ungase wakhe izinqubomgomo kanye nohlelo lokucatshangelwa ezinteleni olukhuthaza abanikazi bamalungelo ukuba behlise noma balungise izinhlanzi zabo emathekwini antulayo ngokomnotho.

7.15 Izikebhe/imikhumbi kanye nomzamo wokudoba

(a) Izikebhe/imikhumbi

Uma kusebenza emkhakheni, bonke abenzi bezicelo kuzodingeka babonise ukuthi banalo ilungelo lokusebenzisa izikebhe/umkhumbi ofanelekela ukudoba lolo hlobo lwenhlanzi noma izinhlanzi. Zonke izikebhe/imikhumbi kuzodingeka ibhaliswe noMnyango ukuze ikhethwe njengesikebhe/umkhumbi wokudoba.

Isikebhe/umkhumbi ofanelekayo uyochazwa kuyinqubomgomo ephathelene nezindawo zokudoba efanelekile, kodwa izimfuneko zokufaneleka eziyisisekelo yilezi:

- ☐ Ibe nefulegi laseNingizimu Afrika (ngale kokuba inqubomgomo yezindawo zokudoba ikhulula ethile);
- ☐ Ngale kokuba ikhululiwe, kufanele ifakwe isistimu egunyaziwe esebenzayo yokuyigada ("VMS");
- ☐ Ibhaliswe kanye ne- South African Maritime Safety Association njengekufanelekele ukudoba;
- ☐ Ingabi sohlwini olungakhulunyelwa kahle lwanoma iyiphi iRFMO.

Lo Mnyango uzodinga ukuba bonke abenzi bezicelo bamalungelo okudoba nenjongo yezentengiselwano basebenzisa izikebhe/imikhumbi ezikhethelwe ukudoba izinhlanzi. Ukushintsha izikebhe/imikhumbi kuyovunyelwa kuphela ezimweni ezifanelekile.

(b) Umzamo wokudoba

UNgqongqoshe kanye noMnyango banesibopho sokucina imvelo ephila olwandle ngokuvumelana nemibandela ye-MLRA futhi basebenzise izindlela zokuqapha mayelana nokuphathwa nokusetshenziswa kwale mithombo. Isici esiyinhloko ekuphathweni nasekulondolozeni kwemvelo yasolwandle ukubekwa kwemingcele emzamweni wokudoba ngokuzikhandla ukuze kuqinisekiswa ukuthi leyo mithombo yemvelo isetshenziswa ngendlela ezozuzisa.

Lo Mnyango umelene nemizamo yokwandisa izikebhe/imikhumbi. Izikebhe/imikhumbi engodedangendlele ibhekwa njengosongo lokuqothula izinhlanzi zaseNingizimu Afrika. Futhi iletha imithwalo eyengeziwe eMnyangweni, kokubili ngoba kufuneka igadwe futhi kuphoqeilewe ukubambisana nomthetho kanye nokulawulwa kokusetshenziswa kwale mvelo. Ngokuvumelana nezinqubomgomo eziphathelene nezindawo zokudoba, ukusetshenziswa ngokubambisana kanye nokwemikhakha ethile kwezikebhe kuyakhuthazwa, njengoba lokhu kuyoholela ekusetshenzisweni ngokuphumelelayo nangendlela engcono kakhulu kwezikebhe kuyo yonke inkathi yokudoba.

Ngakolunye uhlangothi, kuyaqashelwa ukuthi izikebhe/imikhumbi egugayo kumelwe ishintshwe, nangenxa yezizathu zokuphepha. Ukusetshenziswa kobuchwepheshe bamanje emikhunjini/izikebhe kuzoholela ekutheni kubanjwe izinhlanzi ezingi kakhulu. Lapho kudingeka khona, kuyovelwa namasu okunciphisa imizamo yokudoba kakhulu.

7.16 Ukuphepha kwezisebenzi namatilos

Abenzi bezicelo kuzodingeka ukuba babonise ukuthi baye benza ngokuvumelana nezimfuneko ezilawulayo zoMthetho 5 ka-1998 we-South African Maritime Safety Authority, kanye nemithetho eyamanyezelwa ngokusemthethweni ngokwemibandela yoMthetho 57 ka-1951 we-Merchant Shipping.

Ngaphezu kwalokho, abenzi bezicelo kuzodingeka babonise ukuthi benza ngokuvumelana noMthetho 130, ka-1993 we-Compensation for Occupational Injuries and Diseases. Abenzi bezicelo bayaphinda bayakhunjuzwa ngesiqondiso soMnyango sokuthi izinkampani kudingake zamukele izinqubomgomo ze-HIV/AIDS futhi kungase kudingeka zifake lezi zinqubomgomo ezicelweni zazo zika-2005.

7.17 Ukulawula kokudoba izinhlanzi okungamelwe zidotshwe kanye nezinyathelo zokunciphisa nokuchitha.

Ukuncishiswa kwezinhlanzi ezingasetshenziswa nezingaphansi kwesilinganiso kuyinto ebaluleke kakhulu okumelwe icatshangelwe. Izikhulu eziphathisiwe zingase zicabangele izinyathelo ezithathiwe nezihleliwe ukuze kuncishiswe lolu hlobo lwezinhlanzi ezidotshiwe. Kwezinye izindawo akugwemeki ukudoba lezi zinhlanzi futhi kubhekwa njengengxenyeyamukelekayo yezidotshiwe futhi kudinga ukuba kube nezinqubo ezifanelekile zokuqondisa. Lo Mnyango uzoqhubeka nokwakha izinqubomgomo eziqinisekisa ukuhlolwa okuthuthukisiwe kanye nokulawulwa okuhle kwalezi zinhlobo zezinhlanzi ezidotshwa kungamelwe.

Lo Mnyango usenqubweni yokwakha uhlelo lokulawula oluningilizayo maqondana nokudotshwa kwezinhlanzi ngephutha. Ekunqumeni ukufaneleka kokuncishiswa kwezinhlanzi ezidobeka ngephutha nokusebenzisa izinto zokunciphisa, lo Mnyango uzocabangela ukufaneleka kwazo endaweni yokudoba ube ucabangela nesimo sendawo yokudoba ngokwayo; izindleko zokusebenzisa noma imuphi umshini noma isu lokunciphisa; ukuqhathanisa imfundo yasendaweni neyakwezinye izindawo; kanye negalelo labadobi zinhlanzi basendaweni kanye nendima yabo ekuthuthukiseni lawo masu (uma kudingekile).

Lo Mnyango ukhuthaza ukuba kuthathwe izinyathelo zokunciphisa ukudotshwa ngephutha kwezinyoni zasolwandle, oshaka, izinhlanzi ezincelisayo zasolwandle, izinhlanzi ezingama-juvenile kanye nezinye izinhlobo ezihlukahlukene ezisengozini yokuqothulwa noma ezisongelwayo. INingizimu Afrika yakhe i-National Plan of Action (NPOA) ukuze inciphise ukubanjwa kwezinyoni zasolwandle ngephutha kanye nohlaka lwe-NPOA lokunciphisa ukubanjwa ngephutha kwezinhlobo ezithile zoshaka. Kulokhu, lo Mnyango unxusa ngamandla yonke imikhakha yezokudoba ukuba isebenzise imishini yokunciphisa le ngozi, njenge-tori line (into yokunciphisa ukubanjwa kwezinyoni yama-longliner), imishini ye-escapement noma yokuhlunga yemikhakha yama-trawl (i-escapement yezinhlanzi ezingama-juvenile futhi ngokunokwenzeka nezinhlanzi ezincelisayo zasolwandle) kanye nama-mesh size athile ukuze kuvinjelwe ukubanjwa kwezinhlanzi ezingama-juvenile kumanetha angama-trawl. ngaphezu kwalokho, lo Mnyango uwenqaba ngokuqinile umkhuba wokukhetha izinhlanzi ezisezingeni eliphezulu kuphela nokulahla izinhlanzi budedengu kanye nokuzingela ngamabomu izinhlobo okungamelwe zidotshwe. Lo Mnyango uzophinde ucabangele ukuba kube khona ukuvalwa kwesikhashana kokudotshwa kwezinhlanzi lapho kubonakala kudingekile ngenjongo yokuvikelwa kohlobo lwezinhlanzi olusengozini yokuqothulwa kanye nokuvikelwa kwezindawo zokukhuliswa nokuzalwa kwezinhlanzi.

7.18 Imikhuba ezimeme ngokwemvelo

Izikhulu eziphathisiwe zingase ziyivue imisebenzi yokudoba eye yaqalisa, yatshala izimali noma yasekela imikhuba emihle yokugcina ukusimama okungokwemvelo. Ngokukhethekile, lo Mnyango uye uye wathola lezi zindaba ezilandelayo zidinga ukunakekelwa okukhethekile:

- ☐ Ukusungula imishini yokunciphisa izinto eziyingozi eziphehla amandla namalahle ezimbonini nasemikhunjini;
- ☐ Ukunciphisa ukudoba izinhlanzi ezingafanele nezinga lokufa kwezinyoni;
- ☐ Ukunciphisa ukungcola komoya; kanye
- ☐ Nokunciphisa imiphumela enomthelela omubi yokungcoliswa kwezinhlanzi.

7.19 Izindawo zokudoba ngodobo

Izikhulu eziphathisiwe ngeke zabe amalungelo ezentengiselwano kubantu abadoba ngodobo. Okuwukuphela komkhakha abayowanikeza kuwo ngowe-white mussel, ebonakala izoba yimakethe enhle yabantu.

INGXENYE D: IZINYATHELO EZIQONDILE ZENQUBOMGOMO ZOKWABIWA KWAMALUNGELO ESILINGANISO SEZINHLANZI EZIVUMELEKILE (*QUANTUM*) NOMA UMZAMO (EFFORT)

8. Izinyathelo Zenqubomgomo

Eqinisweni, isinqumo sokwaba i-quantum noma i-effort siyocatshangelwa ngokuhlukile esinqumweni, nakuba sihlolene, sokubona ukuthi ngobani abenzi bezicelo abaphumelele. Izinyathelo ezisebenza ekwabiweni kwamalungelo ziyasebenza esinqumweni ezivamile zokwabiwa kwe-quantum. Kule ngxenye yenqubomgomo, ezinye izinyathelo eziyocatshangelwa ezisebenza esinqumweni ze-quantum zihlelile. Izinyathelo zokuyocatshangelwa kule nqubomgomo ngokwabiwa kwe-effort kudingidwa kuzinqubomgomo eziphathelele nemikhakha ethile.

8.1 Ama-Cluster A no-B

Ukwabiwa kwe-quantum emikhakheni ka-Cluster A no-B kusingathwa kuzinqubomgomo eziphathelele nemikhakha. Kweminye imikhakha, indlela yokwaba i-quantum izodinga kuthintwane nabathile, uma nje izicelo emkhakheni sezihloliwe futhi abenzi bezicelo abangaphumelelanga sebaziwa. Lezi zimiso ezilandelayo ziyosetshenziswa ekwabiweni kwe-quantum, kuye ngokuthi ube yini umphumela wokuthintana.

Okokuqala i-quantum (inani lezinhlazi elingase lidotshwe) iyokwabiwa ngokuvumelana nesabelo somenzi wesicelo sika-2005. Isikhulu esiphathisiwe siyonquma ukuthi yisiphi isilinganiso esivumelekile esiphansi esiyokwabelwa abasanda kubhalisa, leso ngokwesimiso esivamile okungamelwe sibe ngaphansi kwesilinganiso esabelwe umenzi wesicelo ongumnikazi welungelo lesikhathi esijana (medium term).

Okwesibili, ngenxa yokuthi kuyinqubomgomo kahulumeni ukuba kusekelwe amabhizinisi amancane kanye nokufukulwa kwabampisholo okusekelwe kabanzi, uNgqongqoshe uqondisa izikhulu eziphathisiwe ukuba zicabangele ukuphinde zabe okungenani u-10% we-TAC emabhizinisini amancane, ayohlanganisa abasanda kubhalisa kanye nabanikazi bamalungelo besikhathi esijana. Ekucabangeleni ukuthi aphinde abelwe yini amabhizinisi amancane, izikhulu eziphathisiwe kumelwe zicabangele isimo sendawo yokudoba kanye nezinga lezinguquko ezenziwe. Ezindaweni zokudoba esezenze izinguquko ezigculisayo futhi ezakhiwe ngamabhizinisi amancane, ukwaba kabusha kungase okungadingekile. Ezindaweni zokudoba lapho izimali zisetshenziswa khona kakhulu futhi zingeke zikufanelekele ukuthuthukiswa kwamabhizinisi amancane, izikhulu eziphathisiwe kumelwe zenze umzamo wokwaba kabusha okungenani u-10% we-TAC kulabo banikazi bamalunelo abaye bathola izabelo ezincane esikhathini esingaphambili kodwa abaye benza izinguquko futhi abasebenza kahle.

Okwesithathu, ngaphandle kwezimiso ezimbili eziboniswe ngenhla, isikhulu esiphathisiwe singase sabe i-quantum ngokwesisekelo sezindinganiso ezihloselwe ukufinyelela imigomo ebekwe kwizinqubomgomo zomkhakha ezilandelayo, njengeyezinguquko neyokusebenza. Lezi zinguquko kumelwe ziklanywe ngendlela ezoqinisekisa ukuthi bonke abenzi bezicelo abaphumelele, kungakhathaliseki usayizi, bazokwazi ukuzuza uma behlangabezana nezindinganiso.

8.2 Ama-Cluster C no-D

Abenzi bezicelo abaphumelele emikhakheni ka-**Cluster C no-D** bayokwabelwa inani elinqunyiwe lama-TAC noma ama-TAE atholakalayo. Leli nani ngeke kudingeke lifane kuyi-zone noma i-TURF ngayinye.

8.3 I-quantum eyeqile eyosala ngemva kwezikhalazo

I-quantuma eyeqile eyosala ngemva kwezikhalazo iyokwabiwa ngokulinganayo.

8.4 Ukwanda kuyi-TAC/TAE

Ukwanda kuyi-TAC noma i-TAE kuzokwabiwa ngokuvumelana nezinhlinzeko ezisebenzayo ze-MLRA.

INGXENYE E: IZINYATHELO EZIYOCATSHANGELWA ZOKUPHATHA KWANGEMVA KOKWABA

Kule ngxenye, izinyathelo eziyocatshangelwa zangemva kokwaba eziningana ziyadingidwa ngemibandela evamile.

Nakuba lezi zinqubomgomo zingeke zisetshenziswe ngokuqondile enqubweni yokwabiwa kwamalungelo yesikhathi eside, kudingekile ukuba kufakwe kule Nqubomgomo imigomo yokuphatha koMnyango ngemva kokuba ukwabiwa kwamalungelo sekuphuthuliwe ukuze kwaziswe abenzi bezicelo.

9. Ukuphatha Ngokubambisana Izindawo Zokudotshwa Kwezinhlanzi Ngenjongo Yezentengiselwano

Lo Mnyango kancane kancane uletha ushintsho ekuphathweni nasekuqondisweni kwezindawo zokudoba zaseNingizimu Afrika, ngokuthuthukela esimisweni sokuphatha izindawo zokudoba ngokubambisana nabanini malungelo, imiphakathi edobayo nabanye abahilelekile abathintekayo.

Ngokwemibandela yale ndlela, ukuphatha kwezindawo zokudoba ngenjongo yezentengiselwano ngeke kuthwalwe yilo Mnyango kuphela. Lo mthwalo wemfanelo uzohlanganyelwa nabanini malungelo futhi, lapho kudingekile, nemiphakathi esezingwini encike ezinhlanzini zasolwandle ukuze iphile. Uhlelo lwe-TURF (Territorial User Rights Fishery) lwethulwa endaweni yokudoba i-abalone, futhi lo Mnyango ucabangela ukwethula indlela efanayo nakwezinye izindawo zokudotshwa kwezinhlanzi, njenge-Hake Handline, i-West Coast Lobster (Eduze Kogu), ama-Oyster, ama-White Mussels kanye ne-Netfishing.

Maqondana nezindawo zokudoba izinhlanzi ezinkulu, lo Mnyango uzofuna ubuhlobo bokusebenzelana obuseduze kanye nezindikimba ezihloniphekile zezimboni namaqembu anesithakazelo ukuze kuthuthukiswe utshalo-mali ocwaningweni lwezindawo zokudoba, ukuphatha nokwenza ngokuvumelana nomthetho.

Ukuze kukhuthazwe ukuphatha ngokubambisana, ama-**Management Working Groups** aqondene nezindawo zokudoba aye amiswa emikhakheni eminingi yokudoba. Abanikazi bamalungelo bayamelelwa kulama-Working Groups yizindikimba zezimboni kanye namaqembu anesithakazelo. Injongo eyinhloko ye-Management Working Group ukwenza ukutusa maqondana nokuphathwa kwendawo yokudoba, kuhlanganise nemibandela yezimvume, izinkathi okuvaliwe ngazo, izindawo okungavunyelwe ukuba kudotshwe kuzo, ukwamukelwa nokuhlukahluka kwamasu okuphatha, ukuvumelana nomthetho nokunqatshelwa kwemikhumbi/izikebhe. Maqondana nezindawo zokudoba ezinkulu, lo Mnyango ucabangela ukuhlanganyela izibopho zawo zale mvelo nendawo yayo ezungezile kanye nocwaningo olungokwesayensi lwezinhlobo zezinhlanzi kanye nethonya lokudoba ezindaweni zezinhlanzi nabanikazi bamalungelo ngama-Working Group noma ezinye izindlela.

Ingxenye 8 (1) ye-MLRA ithi uNgqongqoshe angase, ngesaziso ku*Somqulu*, aqaphele noma iyiphi inhlango yezezimboni noma iqembu elinesithakazelo egatsheni lemboni yokudoba, okuyothi ngokombono kaNgqongqoshe imelele indikimba noma iqembu elithile. Uhlaka lweNqubomgomo kuma-Recognised Industrial Bodies (*RIB's*) aqukethe izindinganiso ezihlongozwayo eziqashelwayo ayokwenziwa atholakale ukuze umphakathi usike elijikayo, ngaphambi kokuba inqubomgomo yamukelwe. Lapho izindikimba eziqashelwayo zezimboni zitholakala khona, lo Mnyango ungase ukhethe ukuxhumana naleyo ndikimba eqashelwayo yezezimboni kuphela.

10. Ama-levy nokutholakala kwezindleko

Ama-levy ayimali enqunyiwe ekhokhwa ngabanikazi bamalungelo bekhokhela amalungelo okudoba izinhlanzi ngenjongo yezentengiselwano nge-unithi ngalinye lenhlanzi efika esikhumulweni futhi ngaleyo ndlela ahlangele nenani lokufika kwazo esikhumulweni. Ama-levy kumelwe akhokhwe ngokwemibandela yengxenye 29 yoMthetho 12 ka-1988 Wokudoba Olwandle.

Okwamanje imali etholakala kuma-levy isetshenziselwa ukukhokhela ezinye izindleko lo Mnyango obhekana nazo ekuphatheni izindawo zokudoba (kuhlanganise nezindleko zokuvumelana nomthetho nezocwaningo) Ngemva kwenqubo yokwaba, lo Mnyango uzophenya ukuthi kungenzeka yini ukwethula uhlelo lokuba ama-levy akhokhwe kusengaphambili noma akhokhwe ngezitolimenti zanyanga zonke ngokwesisekelo sokulingana se-Total Allowable Catch esabiwe (futhi hhayi osusekhumulweni) Lo Mnyango umeme futhi nezinye izinhlongozo zokwethulwa kwesimiso sokutholwa kwezindleko ngokuphelele sokuphathwe kwezindawo zokudoba ngenjongo yezentengiselwano.

11. Izinhlelo zabaqaphi

Uhlelo lokuqapha lalo Mnyango lamanje lugxile ezikebheni/imikhumbi nokuqapha kwasezingwini kanye nokubika. Lo Mnyango uhlose ukwandisa indima yabaqaphi mayelana nokwenza ngokuvumelana nemithetho yokuqapha nokubika ukuze kwandiswe ngokuqhubekayo ukuhlenganiswa kwezindawo zokudoba ngenjongo yezentengiselwano eziningi ngangokunokwenzeka. Lo Mnyango uhlose futhi ukwethula izindlela ezintsha zokuqinisekisa ukuthi umthetho uyahlonishwa njengamakhamera asezinaweni zokudoba. Abanini malungelo kuzolindeleka ukuba bakhokhele izindleko ezihlobene nokuphathwa nokusetshenziswa kwezinhlelo zabaqaphi.

12. Ukudluliswa kwamalungelo

Izicelo zokudluliswa kwamalungelo okudoba zisingathwa ngokuvumelana nengxenywe 21(2) ye-MLRA ebonisa ukuthi amalungelo okudoba angase adluliswe uma kuwukuthi kugunyazwe nguNgqongqoshe noma umphathiswa wakhe.

Uma amalungu e-close corporation noma abanikazi bamasheya enkampani bengazidaluli zonke ezinye izinzuzo abazitholayo oma amasheya abo, ilungelo lokudoba liyohlala lingelaleyo nkampani egunyazwe ngokusemthethweni, futhi akudingekile ukuba ithole ukugunyazelwa ukudluliswa kwalelo lungelo. Nokho, noma yikuphi ukudluliswa kwamasheya noma kwesithakazelo samalungu ekushintshweni kokulawula komuntu ogunyaziwe onelungelo lokudoba, kudinga ukuba kugunyazwe. Lokhu kwenzelwa ukuvimbela ukubalekela umthetho ohlinzekwe engxenyeni 21(2) ye-MLRA. Esimweni senkampani engcoliswe igama, ukuthengiswa kwamasheya angaphezu kuka-35% kudinga ukuba kugunyazwe. Uma umnini lungelo engumuntu oyedwa, isicelo sokudluliswa akumelwe nje senziwe lapho inhloso kuwukuthengisa ilungelo, kodwa nalapho umnini lungelo efa futhi okhipha umthetho efisa ukudlulisela ilungelo komunye umuntu.

Inqubomgomo yamanje maqondana nokudluliswa kwelungelo lokudoba ihlelwe kuyi-Government Notice 1771 ka-Julayi 27 2001. Le nqubomgomo izosetshenziswa kuze kube yilapho sekungena enye esikhundleni sayo ngemva kokwabiwa kwamalungelo ahlala isikhathi eside. Izici ezilandelayo ziye zafakelwa izibuko lapho kucatshangelwa isicelo sokudluliswa kwalungelo lokudoba ngenjongo yezentengiselwano:

- ☐ Ukufa, ukuqedwa, ukuvalwa noma ukwamukwa okwesikhashana komnini lungelo.
- ☐ Izinguquko.
- ☐ Ukukhuthazwa kokuqiniswa kwenani labanini malungelo kanye nomzamo endaweni yokudoba.

Ngemva kokwabiwa kwamalungelo okuthatha isikhathi eside izinkathi "ezikhululekile" zokudluliswa kwamalungelo zingase zakhiwe ukuze kukhuthazwe izinguquko kanye nokuqinisa, abasanda kubhalisa bangase bavunyelwe ukungena futhi abanini malungelo bamanje bangase bavunyelwe ukuba bahlengane nabanye.

13. Ukusetshenziswa kwezinqola kuma-zone angasogwini

Abanini malungelo abadinga ukusebenzisa izinqola kuma-zone angasogwini ukuze basebenze kalula kumelwe bafake isicelo sokuthola imvume ngokwemibandela yeMithetho esebenzayo. Abanini malungelo bayacetshiswa ukuba bacabangele ama-Guidelines on the Implementation of Regulations Pertaining to the Control of Vehicles in the Coastal Zone 2004. Kokubili le Mithetho neZiqondiso kuyathlakala kulo Mnyango (The Directorate: Fisheries Compliance) noma engosini ethi www.mcm-deat.gov.za. Imali yemvume engu-R500 izokhokhiswa futhi imvume ekhishiwe izosebenza isikhathi esilingana nesamalungelo okudoba izinhlanzi.

14. Izindawo zasolwandle ezivikelwe kanye nezindawo zokuphatha ezokudotshwa kwezinhlanzi

14.1 Izindawo Zasolwandle Ezivikelwe;

Lo Mnyango uziqaphela izindawo zasolwandle ezivikelwe njengesiphephelo esibalulekile sezinhlobo zezinhlanzi ngaphansi kokucindezela kokudoba. Okwamanje lezi zinhlobo zezinhlanzi zihlanganisa izinhlobo ezingaphezu kwezingu-50 zezinhlanzi ezidotshwa ngodobo ne-abalone. Izindawo zasolwandle ezivikelwe zibhekwa futhi njengethuluzi elibaluleke kakhulu lokunciphisa ukudoba okungekho emthethweni, okungabikwa nokungalawulwa.

UNgqongqoshe umise idlanzana lezindawo zasolwandle ezivikelwe, evikela cishe u-20% wogu lwaseNingizimu Afrika. Kuhlala kuyisifiso sikaNgqongqoshe noMnyango ukwandisa izinga ezindawo zasolwandle ezivikelwe ekudobeni kusukela ku-1% wamanje kuya ku-20% onqunye emhlabeni wonke engakedluli u-2015.

14.2 Izindawo Zokulawula Ukudotshwa Kwezinhlanzi

Ingxenye 15 ye-MLRA ibonisa ukuthi ukumenyezelwa kwezindawo zokuphatha ukudotshwa kwezinhlanzi zokulawulwa kohlobo oluthile lwezinhlanzi nokugunyazwa kohlelo lokulondoloza, ukuphathwa nokuthuthukiswa kwezindawo zokudoba. Ukumenyezelwa kwezindawo zokuphatha ukudotshwa kwezinhlanzi kungelinye ithuluzi elingase lisetshenziswe, ngaphandle kwezinyathelo ezihlinzekwe engxenyeni 16 nezindawo zokudoba ezinikezwe indawo yokuqala ezihlinzekwe engxenyeni 17, ukuze ziphathwe kahle futhi kuncishiswe izingxabano.

15. Ukuvumelana nomthetho nezaziso zengxenye 28

Lo Mnyango utshale izimali ekuhloleni, ukuqapha, nezinto zokusaveya ("MCS"), kuhlangukise nezimiso zokuqapha nezokubona okwenzekayo, futhi uye wazuza imikhumbi yombuso yokuhlola umonakalo. Lo Mnyango uye futhi wathola amasevisi ochwepheshe bokugcinwa kwamabhuku abasezingeni eliphezulu kanye nabashushisi abasebenzelana ngokukhethekile nezindawo zokudoba.

Lo Mnyango uzoqhubeka ngokwandayo ugxile ekuvimbeleni ukwephulwa komthetho nokuzilawula. Lokhu kuzohambisana nokuqapha okubukhali, ukugcinwa kwamabhuku, ukubambisana namanye amaxusa alawulayo njengoPhiko Lokukhokhwa Kwezimali Zombuso (South African Revenue Service) kanye ne-South African Bureau of Standards, kanye nesicelo sokujeziswa kanzima, kuhlanganisa ukuxoshwa noma ukuphucwa amalungelo okwesikhashana ngokuvumelana nezinhlinzeko zengxenywe 28 ye-MLRA. Lo Mnyango kakade usuphethe ama-memorandum athile okuqonda ngamaxusa ayisisekelo okuphoqelelwa komthetho kokubili kuzwelonke nasemhlabeni wonke, ukuze kwabelwane ngokwaziswa futhi kuqashwe ukuthunyelwa kwamanye amazwe nalapha kwemikhiqizo yezinhlanzi.

Lo Mnyango uzokhipha izaziso ngaphansi kwengxenywe 29(1) futhi uphishekele ukuba kusulwe, kuxoshwe futhi kumiswe okwesikhashana amalungelo okudoba ngokwemibandela yengxenywe 28(4) yoMthetho kuzo zonke izimo lapho uMnyango ubheka khona ukuphulwa kwanoma iyiphi inhlinzeko ye-MLRA, imithetho yayo noma imibandela yemvume ngeso elinqala. Uma ilungelo lokudoba labelwe futhi umnini lungelo ehluleka ukukhokha imali noma i-levy okulindeleke ukuba ayikhokhe ngokwemibandela esebenzayo yesishaya-mthetho, lo Mnyango ngeke ungabaze ukukhipha izaziso ngaphansi kwengxenywe 28 ye-MLRA. Ngaphandle kokudela amalungelo ngokwengxenywe 28 ye-MLRA, lo Mnyango uphenya ngezindlela zokunciphisa ama-quota emacaleni okwephula umthetho we-MLRA.

UHLU LWEZINCAZELO ZAMAGAMA

Inkathi yokwenza isicelo	isho inkathi youqalisa ukushicilela isimemo sokusebenzisa ilungelo lezentengiselwano emkhakheni kuze kube sosukwini lapho isikhulu sezikhalazo sinquma khona okokugcina ngezikhalazo kulowo mkhakha.
Abantu abampisholo	Kusho abantu abansundu, abebala namaNdiya, kuye ngokuthi umuntu uyisakhumuzi saseNingizimu Afrika ngokuzalwa noma wathola ubulungu ngaphambi komhla ka-27 April 1994.
Imithetho Yokusebenza Okuhle	Isho Imithetho Yohlaka Lwe-BEE Yokusebenza Okuhle eyashicilelwa nguNgqongqoshe Wezohwebo Nezezimboni ngo-2004 ngokwemibandela ye- Broad-Based Black Economic Empowerment Act 53 of 2003
UMnyango	Kusho uMnyango Wezemvelo Nezokuvakasha: I-Branch Marine ne-Coastal Management.
Umnikazi Welungelo Lesikhathi Esijana	Kusho umnikazi welungelo alinikwa ilungelo lokudoba lesikhathi esijana phakathi nenkathi ka-2001/2002 – 2005 emkhakheni othile ngokukhethekile, noma waba ngumnini lungelo emkhakheni ngokudluliswa kwelungelo lokudoba ngendlela egunyaziwe.
UNgqongqoshe	Kusho uNgqongqoshe WoMnyango Wezemvelo Nezokuvakasha.
Osanda kubhalisa	Kusho umenzi wesicelo ongeyena umnini lungelo wesikhathi esijana emkhakheni othile awufakele isicelo.

SCHEDULE B

FISHERY SPECIFIC POLICIES



**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT**

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE
DEMERSAL SHARK FISHERY: 2005**

**THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE
ALLOCATION AND MANAGEMENT OF LONG-TERM COMMERCIAL FISHING
RIGHTS: 2005 (available at www.mcm-deat.gov.za)**

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1. Introduction

This policy on the allocation and management of commercial fishing rights in the demersal shark fishery is issued by the Minister of Environmental Affairs and Tourism ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Long-Term Commercial Fishing Rights: 2005 ("the General Fisheries Policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial demersal shark fishing rights. Many of these considerations are not new. They have been applied by the Minister and delegated authorities of the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department") when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this policy. A Demersal Shark Fishery Management Manual will be finalised with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the fishery.

The Minister intends to delegate the section 18 power to allocate demersal shark fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department. The policy documents will guide the delegated authority in taking decisions on applications in this fishery.

2. Profile of the fishery

After interest in the tuna longline fishery waned in the mid 1960's, fishers turned their attention to other more lucrative stocks. Fishers used longline gear to target hake and kingklip under the guise of shark permits. When the by-catch limits of hake and kingklip were reduced in the shark fishery, fishing effort decreased exponentially. Prior to 1998 more than 30 permits were issued to target shark, but due to poor performance in the fishery the total applied effort ("TAE") was reduced to 23 permits in 1998. The TAE was further reduced for 2004 to 11 permits due to poor performance.

The current shark longline fishery targets both pelagic sharks (blue and mako sharks) and demersal sharks (hound sharks, namely *Galeorhinus galeus* and *Mustelus mustelus*) by using either surface or bottom set gears

respectively. In general the vessels targeting hound sharks are often smaller than those targeting pelagic sharks as the area of operation is restricted to coastal waters. As the gear used to target blue and mako sharks is similar to that used for targeting tunas and swordfish a management decision was taken manage the pelagic shark fishery as part of the large pelagic sector from the start of 2006. With effect from 1 January 2006, there will no longer be a targeted pelagic shark fishery.

Many shark permit holders hold other permits in sectors such as hake longline and tuna pole. Consequently, the shark fishery is generally used to keep the vessels busy when not engaged in other sectors.

Sharks are generally long-lived species that display low fecundity, slow growth rates and late maturation, which makes them particularly susceptible to overexploitation. Further, sharks are apex predators and the removal of these species could drastically alter marine ecosystems. Shark recruitment is strongly associated with adult biomass. Accordingly, the more adults in a population the more productive the fishery.

The number of vessels active in the demersal fishery has fluctuated annually, with the number steadily increasing to 14 vessels in 1999. Only five vessels were active in 2003. As the fishery is seasonal (with the highest catch rates experienced in winter) it is difficult to assess yearly Catch per Unit Effort, which has fluctuated widely. Prior to 2001 catches of *G. galeus* averaged 34 tons per year, but since 2001 catches have declined to below 20 tons per year, with less than 3 tons landed in 2004 (the second lowest catch on record). In 2001-2002 a stock assessment indicated that the main targeted species *Galeorhinus galeus* was optimally exploited, despite only three longliners operating in 2001 and two in 2002. Sharks cannot sustain large fisheries.

3. Over-arching fishery objectives

The over-arching objectives of allocating long-term fishing rights in this fishery are to:

- Notably improve the transformation profile of this fishery;
- Permit only the targeting of demersal sharks (see further **Annexure A**). Pelagic sharks may not be targeted;
- Reduce the by-catches of hake and kingklip;
- Promote value adding to demersal sharks; and
- Ensure the environmental sustainability of the fishery.

4. Duration of rights

Having regard to –

- the transformation profile of the fishery; and
- the present marginal state of this fishery,

commercial rights will be allocated for a period of eight years (1 January 2006 to 31 December 2013). The Department will regularly evaluate right holders against predetermined performance criteria (*see Paragraph 11 below*).

5. New entrants

Right holders who have failed to transform, who have failed to perform or who have not complied with the provisions of the MLRA, may be replaced with new entrants. However, it is not envisaged that more than 6 vessels will be permitted in this fishery.

6. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and right-holder applicants will then be separately assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will then be determined in order to select the successful applicants.

6.1 Exclusionary criteria

Apart from the criteria described in the General policy pertaining to the lodgment of applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 71 of 1973. Natural persons (i.e. individuals or sole proprietors) will not be granted rights. Current natural person right holders must

apply in the form of a close corporation or company and will be treated as medium term right holder applicants provided that they comply with the guidelines set out in the General Policy.

- (b) **Compliance:** If an applicant, or its members, directors or controlling shareholders has been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the medium-term right period, the applicant will not be allocated a demersal shark fishing right. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to an applicant if the applicant, or its members, directors or controlling shareholders, has had any fishing right cancelled or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA.

Decisions may be reserved on applications if an applicant (or its members, directors or controlling shareholders) is being investigated for a breach of the MLRA.

Right-holders are required to pay a levy on targeted fish landed. Right-holders that have under-reported catches to avoid the payment of levies will be excluded. Right-holders that have not paid levies will be penalised in the comparative balancing process as set out below. Should such an applicant nevertheless qualify for a right, a fishing permit will not be issued until the outstanding monies have been paid to the Department.

- (c) **Paper quotas:** Paper quotas as defined in the General policy will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 7 below*).
- (e) **Non-utilisation:** The delegated authority may refuse to re-allocate a right if a right holder applicant failed to fully utilise its medium-term commercial shark fishing right between 2002 and 2004.

6.2 Comparative balancing criteria

Right-holder applicants and potential new entrants will be evaluated in terms of the following balancing

criteria, which will be weighted to assess the strength of each application. The criteria stated below must be read with the corresponding criteria in the General policy for further detail. This applies in particular to the "transformation" criterion.

(a) Transformation

Applicants will be assessed on –

- The percentage black and women ownership and black and women representation at top salary, board of directors and senior official and management levels;
- Whether employees (other than top salary earners) benefit from an employee share scheme;
- Affirmative procurement;
- Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment. The delegated authority may also have regard to the wage differentials between the highest and lowest paid employees;
- Compliance with legislation on skills development and the amounts spent on the training of blacks and participation in learnership programmes;
- Enterprise development; and
- Corporate social investment.

(b) Investment in the fishery

As far as right-holder applicants are concerned, the delegated authority will consider:

- Investments in suitable vessels and other fixed assets. In respect of vessels, investment in the form of shareholding will also be considered. Right-holder applicants will not be rewarded for having concluded vessel purchase agreements;
- Investments in processing and marketing infrastructure. In this regard, the delegated authority may reward right holder applicants that have invested in demersal shark processing and marketing initiatives.

As far as new entrant applicants are concerned, the delegated authority will consider investments made in other sectors in the form of vessels and fixed assets, marketing and processing.

(c) Performance

Right-holder applicants will be assessed by having regard to their demersal shark fishing performance over the medium-term period (2002 to 2004).

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to participate in the demersal shark fishery.

(d) Reliance on demersal shark

The delegated authority will positively score applicants who rely on shark fishing for a significant proportion of their gross annual income.

(e) Local economic development

Investment in South Africa's smaller coastal towns should be promoted. The delegated authority may reward those applicants that have invested in smaller coastal towns outside of the large metropolitan areas of Port Elizabeth and Cape Town. Applicants that have invested in facilities in Cape Town and Port Elizabeth will not be negatively scored.

(f) Jobs

Job creation and increases in jobs as a result of the allocation of medium term fishing rights may be taken into account, and in particular, applicants that have provided their employees with –

- Full time employment;
- Medical aid and pension; and
- Safe working conditions.

(g) Non-payment of fish levies

Right holder applicants will be penalised if their levies payable to the Department are outstanding for a period longer than 60 days at the date of application.

(h) Compliance

If the applicant, its members or its directors or controlling shareholders have been convicted of a minor infringement of the MLRA, the regulations, permit conditions or other fishery related offences, during the medium-term right period, or paid admission of guilt fines for contraventions of the MLRA, its regulations or permit conditions, the applicant will be penalised.

6.3 Effort allocations

The delegated authority should allocate no more than six fishing rights authorising a maximum of 6 fishing vessels access to the fishery. Each successful applicant will be permitted to use only one vessel.

7. Suitable vessels

A suitable vessel in the demersal shark fishery is a vessel that:

- has a minimum SAMSA registered length of approximately ten metres. Smaller vessels may be considered on the basis of their shark fishing performance;
- has a functioning vessel monitoring system; and
- is geared for demersal shark fishing.

8. Multi-sector involvement

Right holders in the demersal shark fishery are not precluded from holding commercial fishing rights in the Cluster A and Cluster B fisheries. Demersal shark right-holders, including their controlling shareholders or members (in the case of close corporations) and members of their executive management team will not be permitted to hold commercial fishing rights in the Cluster C and Cluster D fisheries, and traditional line fish rights.

9. Application Fees and Levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 1 January 2006 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

10. Management measures

The management measures discussed below reflect a number of the Department's principal post-right allocation management intentions for this fishery.

10.1 Ecosystem approach to fisheries management

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy which recognises that fishing and associated land-based activities impact on the broader marine environment. This part of the demersal shark fishery policy does not attempt to provide a policy statement on EAF in the demersal shark fishery. The EAF in the demersal shark fishery will be detailed further in the Demersal Shark Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

10.2 By-catch mitigation

The by-catches of hake and kingklip in this sector are of concern. Current by-catch limits for these species will be retained and may be reduced further. By-catch limitations will also be introduced for *blue* and *mako* sharks to prevent the targeting of these species.

11. Performance measuring

The Department will institute a number of formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first performance measuring exercise will take place after a year, and thereafter every three years.

Although the Department will finalise the precise criteria against which right-holders will be measured after the allocation of commercial fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- by-catch mitigation;
- demersal shark catching performance; and
- compliance with applicable laws and regulations.

The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

12. Observer programme

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

13. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.

ANNEXURE A

Right Holders in the demersal longline shark fishery shall only be entitled to target sharks of the genus *Mustelus* and *Galeorhinus*.

Right holders may not harvest or land oceanic sharks, including *blue sharks*, *mako*, *hammerhead*, *oceanic whitetip* and *thresher* sharks. In addition, sharks on the protected species list, including *ragged tooth sharks* and *great whites* may not be harvested.

Notwithstanding the above, right holders shall not be permitted to target any species of shark in the waters adjacent to the Wild Coast and KwaZulu-Natal coastlines.



**DEPARTEMENT VAN OMGEWINGSKE EN TOERISME
TAK MARIENE- EN KUSBESTUUR**

**BELEID AANGAANDE DIE TOEKENNING EN BESTUUR VAN KOMMERSIËLE
VISVANGREGTE IN DIE BODEMHAAL VISSERY: 2005**

**HIERDIE BELEID MOET SAAMGELEES WORD MET DIE ALGEMENE BELEID
AANGAANDE DIE TOEKENNING EN BESTUUR VAN LANGTERMYN
KOMMERSIËLE VISVANGREGTE: 2005 (beskikbaar by www.mcm-deat.gov.za)**

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1. Inleiding

Hierdie beleid vir die toekenning en bestuur van kommersiële visvangregte in die Bodemhaai vissery word uitgereik deur die Minister van Omgewingsake en Toerisme (die "Minister"). Hierdie beleid moet saamgelees word met die Algemene Beleid oor die Toekenning en Bestuur van Langtermyn Kommersiële Visvangregte: 2005 ("die Algemene Visserybeleid").

Die doel van hierdie beleid is om die oorwegings wat van toepassing sal wees op die toekenning van langtermyn kommersiële visvangregte vir die bodemhaai vissery uiteen te sit. Baie van hierdie oorwegings is nie nuut nie. Hulle is in die verlede deur die Minister en gedelegeerde owerhede van die Departement van Omgewingsake en Toerisme: Tak Mariene en Kusbestuur (die "Departement") gebruik by die toekenning van regte en tot 'n mate beliggaam hierdie beleid sodanige oorwegings.

Sekere bestuursbeleidsrigtings vir die periode na die toekenning van regte verskyn ook in hierdie beleid. 'n Bestuurshandleiding vir die bodemhaai vissery sal met al die regtehouers in die loop van 2006 gefinaliseer word. Hierdie handleiding sal in fyn besonderhede die bestuursmetodes en -prosedures vir die vissery uitstippel.

Die Minister is voornemens om die artikel 18-magte in terme waarvan kommersiële visvangregte in die bodemhaai vissery toegeken word ingevolge artikel 79 van die Wet op Lewende Mariene Hulpbronne 18 van 1998 (die "WLMH") aan 'n senior beampte van die Departement te delegeer. Hierdie beleid sal die gedelegeerde owerheid lei in die neem van besluite oor aansoeke in hierdie vissery.

2. Sektorale profiel

Nadat belangstelling in die tuna langlynvissery getaan het in die middel 1960s, het vissers hulle aandag begin toespits op meer winsgewende bronne. Vissers het langlyn-toerusting gebruik om stokvis en koningklip te vang onder die dekmantel van haaipermite. Toe die byvangsperke van stokvis en koningklip in die haaivissery verminder is, het vangspoging eksponensieel verminder. Voor 1998 is daar meer as 30 perमितte uitgereik om haaie te teiken, maar weens swak prestasie in die vissery, is die Totale Ontplooië Vangspoging (TOV) verminder tot 23 perमितte in 1998. Weens swak prestasie was die TOV verder verminder vir 2004 tot 11 perमितte.

Die huidige langlyn haaivissery teiken beide pelagiese haaie (blouvin- en makohaaie) en bodemhaaie (hondhaaie, naamlik *Galeorhinus galeus* en *Mustelus mustelus*) deur die gebruik van of oppervlak- of

bodemsteltoerusting onderskeidelik. Oor die algemeen is die vaartuie wat hondehaai teiken dikwels kleiner as die wat wat pelagiesehaai teiken, aangesien die aanwendingsgebied beperk is tot kuswaters. Aangesien die toerusting wat gebruik word om blouvin- en makohaai te teiken, soortgelyk is aan dit wat gebruik word vir die teiken van tuna en swaardvis, is 'n bestuursbesluit geneem om die pelagiese haaivissery te bestuur as deel van die groot pelagiesevisserij met ingang van 2006. Met effek van 1 Januarie 2006 sal daar nie meer 'n geteikende pelagiese haaivissery wees nie.

Baie haaipermitthouers hou permitte in sektore soos stokvis langlyn- en tuna paalvisserij. Gevolglik word die haaivissery oor die algemeen gebruik om vaartuie besig te hou wanneer hulle nie betrokke is in die ander sektore nie.

Haaie is oor die algemeen 'n langlewende spesie wat lae vrugbaarheid en groeitempos vertoon en wat laat wasdom bereik, wat hulle besonder vatbaar maak vir oor-ontginning. Verder is haaie apeks roofdiere en die verwydering van hierdie spesies kan drastiese veranderings aan mariene ekosisteme meebring. Haairekrutering word sterk vereenselwig met volwasse biomassa. Gevolglik, hoe meer volwassenes in 'n bevolking hoe meer produktief is die visserij.

Die aantal vaartuie wat aktief is in die bodemvisserij het jaarlikse gewissel, met die aantal wat gelydelik toegeneem het tot 14 vaartuie in 1999. Slegs vyf vaartuie was aktief in 2003. Aangesien die visserij seisoenaal is (met die hoogste vangskoers wat in die winter ervaar word) is dit moeilik om die jaarlikse Vangs Per Eenheid Vangspoging vas te stel, wat groot wisselings getoon het. Voor 2001 was vangste van *G. galeus* 'n gemiddeld van 34 ton per jaar, maar sedert 2001 het vangste afgeneem tot onder 20 ton per jaar, met minder as 3 ton wat in 2004 geland is (die tweede-laagste vangs op rekord). In 2001-2002 het 'n voorraadbepaling getoon dat die hooftiekenspesie *Galeorhinus galeus* optimaal ontgin was, ten spyte daarvan dat slegs drie langlynvaartuie werksaam was in 2001 en twee in 2002. Haaie kan nie groot visserij onderhou nie.

3. Oorkoepelende sektorale doelwitte.

Die oorkoepelende sektorale doelwitte met die toekenning van langtermynvisvangregte in hierdie visserij is om:

- Die transformasieprofiel van hierdie visserij merkbaar te verbeter;
- Slegs die teiken van bodemhaai toe te laat (sien verder aanhangsel A), pelagiese haaie mag nie geteiken word nie;
- Die byvangste van stokvis en koningklip te verminder;

- Waardetoevoeging tot bodemhaai te bevorder; en
- Die omgewingsvolhoubaarheid van die vissery te verseker;

4. Tydsduur

Met inagneming van -

- die transformasieprofiel van die vissery;en
- die huidige marginale stand van die vissery

sal kommersiële regte vir 'n tydperk van 8 jaar toegeken word (1 Januarie 2006 tot 31 Desember 2013). Die Departement sal gereeld regtehouers evalueer teen voorafbepaalde prestasiekriteria (**sien paragraaf 11 hieronder**).

5. Nuwe inkomelinge

Regtehouers wat versuim het om te transformeer, wat versuim het om te presteer of wat nie voldoen het aan die bepalings van die WLMH nie mag deur nuwe inkomelinge vervang word. Dit word egter nie voorsien dat meer as 6 vaartuie in hierdie vissery toegelaat sal word nie.

6. Evaluasiekriteria

Aansoeke sal volgens 'n stel "uitsluitingskriteria" gesif word. Nuwe inkomeling aansoekers en bestaande regtehouer aansoekers wat aansoek doen sal daarna apart evalueer word in terme van 'n stel gelaaide "vergelykende balanseringskriteria". 'n Afsnypunt of rangorde sal dan bepaal word om die suksesvolle aansoekers te bepaal.

6.1 Uitsluitingskriteria

Behalwe vir die kriteria beskryf in die algemene beleid aangaande die indiening van die aansoeke en wesenlike tekortkominge, sal die gedelegeerde owerheid aansoekers uitsluit wat versuim om aan die volgende vereistes te voldoen:

- (a) **Vorm van aansoeker:** Slegs aansoeke van entiteite geïnkorporeer ingevolge die Wet op Beslote Korporasies 69 van 1984 en die Maatskappijwet 61 van 1973 sal in aanmerking

kom. Regte sal nie toegeken word aan natuurlike persone (d.w.s. individue of eenmansake) nie. Natuurlike persone wat bestaande regtehouers is moet aansoek doen in die vorm van 'n beslote korporasie of maatskappy en sal as medium termyn regtehouers behandel word indien hulle aan die riglyne uiteengesit in die Algemene Beleid voldoen.

- (b) **Wetsnakoming:** Indien 'n regtehouer aansoeker of sy lede, direkteure of beherende aandeelhouders skuldig bevind is aan 'n ernstige misdryf ingevolge die WLMH, die regulasies, permitvoorwaardes of ander ernstige vissery verwante misdrywe gedurende die mediumtermyn regteperiode sal daar nie 'n bodemhaai visvangreg aan die aansoeker toegeken word nie. Dit sluit nie die betaling van 'n skulderkenningsboete in nie. Regte sal ook nie toegeken word aan 'n aansoeker indien die aansoeker of sy lede, direkteure of beherende aandeelhouders se visvangregte gekanselleer, opgeskort of ingetrek is ingevolge die WLMH of indien daar op hul bates beslag gelê is in terme van die Wet op die Voorkoming van Georganiseerde Misdad 121 van 1998 of die WLMH nie.

Besluite mag gereserveer word oor aansoek indien die aansoekers (of die aansoeker se lede, direkteure of beherende aandeelhouders) ondersoek word vir oortredings van die WLMH.

Daar word van regtehouers vereis om 'n heffing te betaal op die geteikende vis wat geland word. Regtehouers wat vangste onder-gerapporteer het ten einde die betaling van heffings te vermy sal uitgesluit word. Regtehouers wat nie heffings betaal het nie sal gepenaliseer word in die vergelykende balanseringsproses soos hieronder uiteengesit. Sou sodanige aansoeker egter nietemin vir 'n reg kwalifiseer, sal 'n visvangpermit nie uitgereik word nie alvorens die uitstaande gelde aan die Departement betaal is nie.

- (c) **Papier-kwotas:** Papier-kwotas, soos gedefinieer in die Algemene beleid, sal uitgesluit word.
- (d) **Toegang tot 'n geskikte vaartuig:** Aansoekers sal moet aantoon dat hulle 'n reg van toegang tot 'n geskikte vaartuig het (*sien paragraaf 7 hieronder*).
- (e) **Nie-gebruik:** Die gedelegeerde owerheid mag weier om 'n reg weer toe te ken as 'n regtehouer aansoeker versuim het om tussen 2002 en 2004 sy medium-termyn kommersiële haaivisvangreg ten volle te benut.

6.2 Vergelykende balanseringskriteria

Regtehouer aansoekers, asook potensiële nuwe inkomelinge, sal evalueer word ingevolge die volgende balanseringskriteria, wat gelaai sal word ten einde die sterkte van elke aansoek te bepaal. Die kriteria hieronder uiteengesit moet saamgelees word met die ooreenstemmende kriteria in die Algemene beleid vir verdere detail. Dit is in besonder van toepassing op die "transformasie" kriterium.

(a) Transformasie

Aansoekers sal evalueer word op grond van -

- Die persentasie swart en vroue eienaarskap en swart en vroue verteenwoordiging op top salarisvlakke, direksie en senior beampste en bestuursvlakke;
- Of werknemers (anders as top salaristrekkers) voordeel trek uit 'n werknemeraandeleskema;
- Regstellende aankope;
- Nakoming van die Wet op Diensbillikheid 55 van 1998 en die verteenwoordigheid van swart persone en vroue op die verskillende diensvlakke. Die gedelegeerde owerheid mag ook die verskil in besoldigingsvlakke tussen die hoogste en laagste betaalde werknemers in ag neem.
- Nakoming van wetgewing oor vaardigheidsontwikkeling en die bedrae spandeer op die opleiding van swart persone en deelname aan leerskapprogramme;
- Ondernemingsontwikkeling; en
- Korporatiewe maatskaplike belegging.

(b) Belegging in die visserij

Met betrekking tot bestaande regtehouers, sal die gedelegeerde owerheid die volgende oorweeg:

- Beleggings in geskikte vaartuie en ander vaste bates. Met betrekking tot vaartuie sal beleggings in die vorm van aandeelhouding ook in aanmerking geneem word. Regtehouer aansoekers sal nie beloon word vir die sluit van koopooreenkomste nie.

- Belegging in prosessering en bemarkingsinfrastruktuur. In hierdie verband mag die gedelegeerde owerheid regtehouer aansoekers beloon wat in bodemhaai prosessering en bemarking, belê het.

Wat nuwe inkomeling aansoekers betref, sal die gedelegeerde owerheid oorweging gee aan beleggings gemaak in ander sektore in die vorm van vaartuie en vaste bates, bemarking en prosessering.

(c) Prestasie

Regtehouer aansoekers sal evalueer word deur ag te slaan op hulle bodemhaai visvangprestasie oor die medium-termyn periode (2002 tot 2004).

Nuwe inkomeling aansoekers sal evalueer word deur ag te slaan op die feit of hulle die vermoë, kennis en vaardigheid het om deel te neem aan die bodemhaaivissery.

(d) Afhanklikheid van Bodemhaai

Die gedelegeerde owerheid sal positiewe punte toeken aan aansoekers wat afhanklik is van bodemhaai vir 'n wesentlike gedeelte van hulle bruto jaarlikse inkomste.

(e) Plaaslike ekonomiese ontwikkeling

Belegging in Suid Afrika se kleiner kusedorpie behoort bevorder te word. Die gedelegeerde owerheid mag daardie aansoekers beloon wat belê het in kleiner kusedorpie buite die groot metropolitaanse gebiede van Port Elizabeth en Kaapstad. Daar sal nie negatiewe punte toegeken word aan aansoekers wat belê het in fasiliteite in Kaapstad en Port Elizabeth nie.

(f) Werksgeleenthede

Werkskepping en die vermeerdering van werksgeleenthede as gevolg van die toekenning van mediumtermynregte mag in ag geneem word, en in besonder, aansoekers wat hulle werknemers voorsien het met-

- Voltydse werk;
- Mediese fonds en pensioen; en
- Veilige werksomstandighede.

(i) Nie-betaling van heffings

Regtehouer aansoekers sal penaliseer word as hul heffings betaalbaar aan die Departement vir 'n tydperk langer as 60 dae agterstallig is op die datum van aansoek.

(j) Wetsnakoming

Indien die aansoeker, sy lede of direkteure of beherende aandeelhouders skuldig bevind is aan geringe oortredings van die WLMH, sy regulasies, permitvoorwaardes of ander vissery verwante oortredings, gedurende die medium-termyn regteperiode, of indien 'n skulderkenningsboete betaal is vir oortredings van die WLMH, sy regulasies of permitvoorwaardes, sal die aansoeker penaliseer word.

6.3 Vangspoging Toekennings

Die gedelegeerde owerheid behoort nie meer as 6 visvangregte toe te ken nie wat 'n maksimum van 6 vaartuie toegang sal magtig tot hierdie vissery. Elke suksesvolle aansoeker sal toegelaat word om slegs een vaartuig te benut.

7. Geskikte vaartuie

'n Geskikte vaartuig in die bodemhaai vissery is 'n vaartuig wat -

- 'n minimum SAMVO geregistreerde lengte van ongeveer tien meter het. Kleiner vaartuie mag oorweeg word op grond van hulle haaivangprestasie;

- 'n werkende vaartuigmoniteringstelsel het; en
- toegerus is vir bodemhaai visvangs.

8. Multi-sektorale betrokkenheid

Regtehouers in die bodemhaai vissery word nie verhinder om regte in enige ander vissery in Groepe A en B visserye te hou nie. Bodemhaai regtehouers, insluitende hulle beherende aandeelhouers of lede (in geval van beslote korporasies) en lede van hulle uitvoerende bestuurspan sal nie toegelaat word om kommersiële visvangregte in Groepe C en D visserye en tradisionele lynvisregte te hou nie.

9. Aansoekgelde en heffings

Die aansoekgelde vir hierdie vissery sal bepaal word met inagneming van:

- Die koste van die hele regtetoekenningsproses, met inbegrip van oorlegpleging, ontvangs, evaluering van aansoeke, verifikasie, appèlle en hersienings; en
- Die waarde van die vis wat toegeken word oor die duur van die reg.

Die jaarlikse heffings wat met ingang 1 Januarie 2006 betaalbaar is, sal vasgestel word na oorlegpleging met regtehouers. Die heffings betaalbaar sal deur die Departement gebruik word vir die mitigasie van jaarlikse kostes van bestuur, wetsnakoming en navorsing.

10. Bestuursmaatreëls

Die bestuursmaatreëls wat hieronder bespreek word, weerspieël sommige van die Departement se hoofvoornemens vir die bestuur van hierdie vissery nadat regte toegeken is.

10.1 Ekosisteenbenadering tot bestuur van vissery

Hierdie vissery sal bestuur word ooreenkomstig die ekosisteenbenadering tot die bestuur van visserye ("EBV"). 'n Ekosisteenbenadering tot visserybestuur is 'n holistiese en geïntegreerde beleid wat erken dat visvang en verwante aktiwiteite op land die breë mariene omgewing beïnvloed. Hierdie deel van die beleid vir die bodemhaai vissery, poog nie om 'n beleidsverklaring te voorsien oor EBV in die bodemhaai vissery nie. Die EBV in die bodemhaai vissery sal verder uitgestippel word in die

Bestuurshandleiding vir die Bodemhaai vissery. Suid-Afrika bly verbind tot die teikendatum van 2010 vir die inwerkingstelling van 'n EBV in die kommersiële visserye.

10.2 Mitigasie van byvangs

Die byvangste van stokvis en koningklip in hierdie sektor is 'n bron van kommer. Huidige beperkings op byvangste vir hierdie spesies sal behou word en mag verder verminder word. Beperkings van byvangste sal ook ingestel word vir *blou* en *mako haaie* om die teiken van hierdie spesies te voorkom.

11. Prestasiemeting

Die Departement sal 'n aantal formele prestasiemetingoefeninge instel vir die duur van die kommersiële visvangregte. Daar word beoog om die prestasiemetingoefening na een jaar uit te voer en dan elke drie jaar daarna.

Alhoewel die Departement die presiese kriteria waaraan die regtehouers gemeet sal word sal finaliseer na oorlegpleging met regtehouers, mag die volgende breë prestasie-verwante kriteria gebruik word:

- transformasie;
- belegging in vaartuie, fabrieke en toerusting;
- volhoubare benutting, en in besonder die vermindering van byvangste en die vermindering van die biologiese en ekologiese impak van treilvisvangs;
- nakoming van toepaslike wette en regulasies.

Die oogmerke met prestasiemetingoefeninge sal wees om te verseker dat die doelstellings van die vissery bereik word en dat bestuursmetodologie en prosedures geskik is en op datum bly vir die vissery.

12. Waarnemerprogram

Die Departement se huidige waarnemersprogram sal uitgebrei word om waarneming vir wetstoepassings-doeleindes in te sluit. Die Departement sal verder die dekking van waarneming van hierdie vissery progressief uitbrei. Daar sal van regtehouers verwag word om die koste van die waarnemingsproses te dra.

13. Permitvoorwaardes

Permitvoorwaardes vir hierdie vissery sal jaarliks uitgereik word. Die permitvoorwaardes sal vasgestel word na konsultasie met regtehouers in hierdie vissery en sal onderworpe wees aan hersiening soos en wanneer dit nodig mag wees.

AANHANGSEL A

Regtehouers in die bodemhaai langlyn visserij sal slegs geregtig wees om haai van die genus *Mustelus* en *Galeorhinus* te teiken.

Regtehouers mag nie oseaanhaai oes of land nie, insluitende blouhaai, mako, hamerkophaai, oseaaniese witpunthaai en voshai nie. Verder mag haai op die beskermde spesies, insluitend skeurtandhaai en widdoodshaai, nie ge-oes word nie.

Bogenoemde ten spyte, sal regtehouers nie toegelaat word om enige spesie haai te teiken in die water langs die Wildekus en die KwaZulu-Natal kuslyn nie.



**ISEBE LEMICIMBI YEZENDALO NOKHENKETHO
ISEBE LOLAWULO LOLWANDLE NAMANXWEBE**

**UMGAQO-NKQUBO WOLWABIWO NOLAWULO LWAMALUNGELO ORHWEBO
LOKULOB A I I-DEMERSAL SHARK : 2005**

**LO MGAQO- NKQUBO UMELE UFUNDWE KUNYE NOMGAQO-NKQUBO
JIKELELE WOKWABIWA NOKULAWULWA KWENKQUBO YEXESHA ELIDE
YAMALUNGELO ORHWEBO LOKULOB A:2005 (iyafumaneka ku: [www.mcm-
deat.gov.za](http://www.mcm-deat.gov.za))**

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1. Intshayelelo

Lo mgaqo wolwabiwo nendlela yokuphatha amalungelo okuloba ngenjongo zoshishino kushishino lokuloba idemersal-shark ukhutshwe nguMphathiswa Wezobume Bendalo Nokhenketho ("uMphathiswa"). . Lo mgaqo kufuneka ufundwe ndawonye noMgaqo-Nkqubo Jikelele woLwabiwo NoLawulo lweNkqubo yeXesha eLide yamaLungelo Okuloba :2005 . ("uMgaqo jikelele"):

Injongo yalo mgaqo-nkqubo kukumisela iingcamango ezayakuthi zisetyenziswe kunikezelo lwamalungelo exesha elide orhwebo ngokuloba i-demersal shark. Uninzi lwezingcamango azintshanga. Bezityenzisiwe nguMphathiswa negunya elithunyiweyo leSebe Lezobume Bendalo Nokhenketho: Isebe Lolawulo Lolwandle namNxweme ("iSebe") ngethuba bekunikezelwa amalungelo kwixesha elidlulileyo kwaye ukusa kumkhamo othile la maxwebhu omgaqo agunyazisa loo mabakala..

Inkqubo ezithile ezothi zilawule amalungelo anikezelweyo zichaziwe kulenkqubo. Uxwebhu. ulozakuba sisikhokelo soLawulo soshishino lwabalobi lwe-Demersal Shark luzakugqityezelwa nabo bonke abanini-malungelo phakathi kunyaka ka-2006. Eli xwebhu lusisikhokelo lizakubonisa iinkcukacha zolawulo lolwazi-nkqubo nemigaqo yoshishino yokuloba kulefishari.

UMphathiswa uzimisele ukugunyazisa amandla ecandelo lomthetho 18 ukunikeza amalungelo oshishino lorhwebo ngokuloba i-Demersal shark njengoko kusekiwe kwicandelo lomthetho ka 79 weMarine Living Resources Act 18 ka 1998 ("*the MLRA*") kwi gosa eliphezulu leSebe. Eli xwebhu lomgaqo-nkqubo liza kukhokela lowo ugunyazisiweyo ekwenzeni izigqibo kwizicelo zabalobi

2. Ubume balefishari

Emva kokuncipha komdla kushishino lwexesha elide lwe-tuna phakathi kwiminyaka yo-1960, abalobi umdla wabo waguqukela kolunye ushishino oluzakuthi lube nengeniso enkulu. Abalobi bathi basebenzisa ezinye iindlela ngokuthi ushishino balujolise kwi-hake kunye ne-kingklip besithela ngesivumelwano soshishino ngee-shark. Kuthe xa kuncitshiswa imida yokubanjwa kwe-hake ne-kingklip kushishino lokulotywa kookrebe zatsho zehla iinzame ngokucacileyo. Phambi ko-1998, malunga nesixa esingama-30 eemvume akhutshwa kujoliswe kushishino lwee-shark, kodwa ngenxa yokungahambi kakuhle kolu shishino, i-total applied effort ("TAE") yancitshiswa yayakuma kuma-23 eemvume ngo-1998. I-TAE yaphinda yancitshiswa kwakhona ngo-2004 yaya kuma kwi-11 leemvume

ngenxa yokungasebenzi kakuhle.

Ushishino olukhoyo ngoku lwee-shark lujolise kuzo zombini ; i-pelagic sharks (blue and mako sharks) ne-demersal sharks (hound sharks, oko kukuthi *Galeorhinus galeus* ne-*Mustelus mustelus*) ngokuthi basebenzise iigiyeri phandle okanye emazantsi ngokwahlukeneyo. Ngokuqhelekileyo iinqanawe ezisetyenziselwa ukubamba i-hound sharks zincinane kunezo zokuloba i-pelagic sharks njengoko indlela ekusetyenzwa ngayo ipheleliselwe kumanzi aselunxwemeni. Njengoko ezi giyeri zisetyenziswa ekulobeni i-blue ne-mako sharks ziyafana naleyo isetyenziswa ekubanjisweni kwee-tuna ne-swordfish isigqibo solawulo sathatyathwa ukususa ukulotywa kkoshishino lwe-pelagic shark kwicandelo elide lee-shark nokulilawula njengenxalenye yecandelo elikhulu le-pelagic ekuqaleni komnyaka ka-2006. Ukusukela ngomhla woku-1 ku-January 2006, akuzi kubakho shishino lujoliswe ekulobeni i-pelagic.

Abaphathi abaninzi abanemvume yokuloba ii-shark bathi babe nenzinye iimvume kwamanye amacandelo anjenge-hake longline ne-tuna pole. Ngenxa yoko, ushishino lweeshark lusetyenziswa nje ukuba iinqanawe mazihlale zisebenza xa zingasetyenziswa kwamanye amasebe.

Ii-shark ludidi oluhleli ixesha elide elibonisa uphuhliso oluphantsi, izinga lokukhula eliphantsi nokuvuthwa kade okuthi kutsale ukuthabatheka okuthile ukuya kuma ekuxhatshazweni okumandla. Phambili, ookrebe zincopho zamarhamncwa kwaye ukususwa kolu didi kungathi kabukhali kuguqule iinqanawa zorhwebo. Ukufunyanwa kookrebe kungadityaniswa ngamandla no-biomass kwabadala. Ngokunjalo, ngokwanda kwabemi abadala kukwanda ngokumandla koshishino lokuloba.

Inani leenqanawa ezisebenzayo kushishino lwe-demersal lunyuka lusihla minyaka le, ngenani eliqinisekisiweyo elinyuke laya kuma kwi-14 yeenqanawa ngo-1999. Zintlanu kuphela iinqanawa ebezisebenza ngonyaka ka-2003. Njengoko ushishino lokuloba luhamba ngamaxesha onyaka (amanani ngexesha lasebusika okubambisa ayenyuka) kunzima ukuqingqa i-Catch per Unit Effort, ngonyaka, ethi inyuk'isihla kakhulu. Phambi ko-2001 ukubanjiswa kwe *G. galeus* kuye kuma kumlinganiselo wama-34 eetoni ngonyaka, kodwa ukusukela ngo-2001 ubambiso luye lwehla lwaya kuma kuma-20 eetoni ngonyaka, ngaphantsi kwe-34 zeetoni yango-2004 (eyesibini phantsi kweerekhodi). Ngo-2001-2002 ukumiswa kwenxaxheba yoshishino ibonakalise ikuba olona didi kujoliswe kulo yi- *Galeorhinus galeus* yaza yaxhatshazwa, ngaphandle kwezo zintathu zazisebenza ngo-2001 nezimbini ngo-2002. Ii-shark azisokuze zithwale ushishino lokuloba olukhulu.

3. Iinjongo eziqukayo kulefishari

Injongo zokunikeza ngamalungelo exesha elide okuloba kolu hlobo lokuloba zezi:

- Ukunyusa ngokumandla izinga lenguqu kulefishari;
- Ukuuvunyelwe kuphela ukujoliswa kokuloba kwi-demersal shark (jonga i-Annexure A).
Kungajoliswa kwi-Pelagic sharks
- Kuncitshiswe ukubanjiswa kwe-hake ne-kingklip;
- Kukhuthazwe ukongezwa kwexabiso kwi-demersal nokunyusa ixabiso lalefishari
- Ukuqinisekisa ukugcinwa ngokwendalo ukuqhubekela kwalefishari

4. Ixesha lamalungelo

Xa kuqatshelwa –

- ubume benguqu kulefishari, kunye
- nokungazinzi okuthe xhaxhe kwalefishari,

amalungelo oshishino aya kunikezelwa kangangethuba leminyaka esibhozo (1 January 2006 ukuya ku 31 Disemba 2013). ISebe liya kubaphonononga rhoqo abo banamalungelo lijonga indlela ebekwe kwangaphambili abamele basebenze ngayo (jonga uMhlathi 11 ngezantsi.).

5. Abangeneli abatsha

Izicelo zabangeni abatsha zizakuthi zijongwe zingene endaweni yabo banamalungelo abangakhange bakwazi ukwenza iinguqu, abasileleyo ukusebenza ngendlela, okanye abangawathobelanga amalungiselelo e-MLRA. ISebe aliboni livumela imikhumbi engaphezu kwesithandathu okuloba i-demersal shark

6. Indlela yokuvavanya

Izicelo zizakujongwa kusetyenziswa indlela yokuthintela ("exclusionary criteria"). Izicelo

zabangeneli abatsha nezicelo zabo bebenamalungelo zizakuhlolwa ngokwahlukeneyo kusetyenziswa indlela elinganayo yokuthelekisa ("comparative balancing criteria") Amanqaku okanye udidi luzakumiswa ukuze kukwazi ukukhethwa izicelo eziphumeleleyo . Isiqingatha se TAE sizakwabelwa isicelo ngasinye esiphumeleleyo ngokwendlela ekuthiwa yi-"quantum criteria" (ubungakanani bento efumanekayo).

6.1 Indlela yokuthintela

Ngaphandle kwale ndlela echazwe kuMgaqo Jikelele malunga nokufaka isicelo, nezo zinto zingalunga, igunya elithunyiweyo liya kuzirhoxisa ezo zicelo zithe zasilela kwezimfuno zilandelayo:

- (a) **Uhlobo lomfaki-sicelo** : Izicelo ezizakuqwalaselwa zesisuka kumaziko amiselwe ngoMthetho wa-69 weClose Corporations ka 1984 (Close Corporation Act 69 of 1984) noMthetho wa-79 WeNkampani ka 1973 (Companies Act 79 of 1973).. Izicelo ezivela ebantwini (abo bazimeleyo okanye oshishina eyedwa) azisayi kuqwalaselwa. Abantu abazimeleyo abasele benamalungelo bamele bafake izicelo besebenzisa i-close corporation okanye i-nkampani kwaye baya kuthathwa njengabanamalungelo okwexeshana lo gama nje belandela imiyalelo ekuMgaqo Jikelele.
- (b) **Ukuthobela** : Ukuba umfaki-sicelo, okanye amalungu, abalawuli (ii-director) okanye abafaki-mali (ii-share-holder) ababambe iintambo zakhe zafunyaniswa zinetyala lokwaphula ngokunzulu i-MLRA, imimiselo, imiqathango yemvume okanye olunye olwaphulo-mthetho olunokuthanani nezokuloba ebudeni bokuba nelungelo lokwexeshana, loo mfaki sicelo akayi kulinikwa ilungelo lokuloba idemersal-shark. Oku akuquki ukuhlawula intlawulo yokuvuma ityala. Kwakhona umfaki-sicelo akayi kuwanikwa amalungelo ukuba yena, okanye amalungu, abalawuli (ii-director) okanye abafaki-mali (ii-shareholder) ababamb' iintambo bakhe bahluthwa okanye barhoxiselwa amalungelo okuloba ngokwemigaqo ye-MLRA, okanye kwahluthwa impahla yabo phantsi komthetho we-Prevention of Organized Crime Act 121 of 1998 okanye i-MLRA.

Izigqibo zisenokumiswa kwizicelo ezo xa umfaki-sicelo (okanye amalungu, abalawuli okanye abafaki-mali abanamagunya) ephandwa mayela nokuphula imithetho ye-MLRA.

Abanikwe amalungelo kufuneka abahlawule irhafu yeentlanzi abazilobileyo. Abanamalungelo abangazichazi zonke iintlanzi abazilobileyo kuba bebaleka ukuhlawula ezi rhafu abazi kunikwa lungelo.

Abanamalungelo abangekazihlawuli iirhafu zabo baya kohlwaywa ngokwendlela yokuthelekisa andlalwe apha ngezantsi. Ukuba loomfaki-sicelo uyaphumelela ukufumana ilungelo, akayi kuyifumana imvume yokuloba de abe ubhetele ezo mali zingangenanga kwiSebe.

- (c) **Abafaki-zicelo abanganyanisekanga:** Abafaki-zicelo abanganyanisekanga (njengoko kuchaziwe kumthetho Jikelele) bayakukhutshwa.
- (d) **Ukufikelela kumkhumbi ofanelekileyo:** Abafaki-zicelo kufuneka babonise ilungelo lokufikelela kumkhumbi ofanelekileyo. (*jonga umhlathi 7 ngezantsi*).
- (e) **Ukungasetyenziswa:** Igunya elithunyiweyo linokwala ukuphinda ukumnika ilungelo ukuba lowo ebenelungelo uye akaphumelela ukulisebenzisa ngokoneleyo ilungelo lwethuba lexeshana lorhwebo nge-dermesal shark phakathi konyaka ka 2002 no 2004.

6.2 *Inkqubo elinganayo yovavanyo*

Abafaki-sicelo abasele benamalungelo nabazakuna ngabangeneli abatsha baza kuhlolwa ngokwale miqathango ilandelayo, eya kuthi iphononongwe ukuze kubonwe amandla esicele ngasinye. Ezi mfaneleko zichazwe ngezantsi zimele zifundwe kunye neemfaneleko ezihambisana nazo kuMgaqo Jikelele ukuze ufumane iinkcukacha ezithe vetshe. Oku kusebenza ngakumbi kwimfaneleko *“yenguqu”*.

(a) **Inguqu**

Abafaki-zicelo bazakuhlolwa ngokujongwe kwezi nkalo -

- Umlinganiselo (iipesenti) wabamnyama nowamabhinqa angabanini bamashishini kunye nowokumelwa kwabamnyama namabhinqa kwimivuzo ephezulu, kwibhodi yabalawuli (yee-director) noosomaqhuzu (senior official) nabakwizinga lukuphatha

- Ingaba abasebenzi (ngaphandle kwabo bafumana imivuzo ephezulu) bayafumana kuhlelo lwezabelo labasebenzi;
- Ukuthenga kumashishini abamnyama;
- Ukuthobela uMthetho 55 we Employment Equity ka 1998; kunye nokumelwa kwabamnyama namafezi kumanqanaba awahlukeneyo emsebenzini. Igunya elithunyiweyo lisenokuqwalasela nomahluko kwimivuzo yabasebenzi abakweyona mivuzo iphezulu nepantsi;
- Ukuthobela umthetho wokuphucula kobuchule kunye neemali ezichithwa ekuqeqesheni abamnyama nokuba nenxaxheba kwiinkqubo zokufundisa; kwakunye
- Notyalo-mali kwezasekuhlaleni

(b) Utyalo-mali kulefishari

Ngokwabafaki-zicelo abanelungelo, igunya elithunyelweyo liza kujongisa oku:

- Ukutyala kwemali kwimikhumbi efanelekileyo nezinye izinto ezisigxina.. Ngokuphathelele kwimikhumbi, ukutyala imali ngokuthi ube nezabelo kuyakuqwalaselwa. Abafaki-zicelo abanelungelo abayi kuvuzwa ngokuthi nje baqoshelise izivumelwano zokuthenga umkhumbi.
- Ukutyala imali kumsebenzi nakubuceducedu bokuthengisa. Igunya elithunyelweyo lisenokumvuza ofake isicelo oye watyala imali ekusetyenzweni nasekuthengisweni kwe-demersal shark.

Ngokuphathelele abafaki-zicelo abatsha, igunya elithunyelweyo liya kujonga imali etyalwe kwamanye amacandelo okuloba ngokuphathelele kwimikhumbi nempahla esisigxina, ukuthengiswa nokusetyenzwa kwemicimbi.

(c) Indlela yokusebenza

Izicelo zabanelungelo ziya kuhlolwa ngokuthi kujongwe ukusebenza kwabo ngukuloba i-demersal shark ngethuba lamalungelo exeshana (ukusuka ku 2002 ukuya 2004)

Izicelo zabangeneli abatsha ziyakuphononongwa ukuba ingaba banaso na isakhono, ulwazi nobuchule bokuthatha inxaxheba ekulobeni i-demersal shark.

(d) Ukuxhomekeka kwi-demersal shark

Igunya elithunyelweyo liya kunikezela amaqaku aphucukileyo kubabafaki-zicelo abangeniso yabo yaminyaka le ixhomekeke kanobom ekulobeni i-demersal shark.

(e) Uphuhliso lloqoqosho lwasekuhlaleni

Ukutyalala imali kwiidolophu ezincinane eziselunxwemeni zaseMzantsi Afrika kumele kukhuthazwe. Igunya elithunyelweyo lisenokuvuza abafaki-zicelo abaye bafak' imali kwiidolophu eziselunxwemeni ngaphandle kwesixeko esikhulu saseBhayi naseKapa. Abo banamalungelo abatyale imali kwiindawo eziseKapa naseBhayi abayi kuphulukana namanqaku.

(f) Imisebenzi

Ukwakha imisebenzi nokwandiswa kwemisebenzi ngenxa yokufumana amalungelo okwexeshana aya kuvuzwa, kwaye ingakumbi, abafaki-zicelo ababonelele abasebenzi babo ngoku kulandelayo:

- Umsebenzi osisigxina ;
- Isibonelo sikaGqirha (medical aid) nesomhlala-phantsi;
- Nokusebenze phantsi kweemo ezikhuselekileyo.

(g) Ukungahlawulwa kwerhafu yentlanzi

Abafaki-zicelo abanikwe amalungelo baya kohlwaywa ukuba iirhafu zabo eziya kwiSebe azihlawulwanga kangangethuba elingaphezu kweentsuku ezingama-60 ngexesha abafaka ngaso isicelo.

(h) Ukuthobela

Ukuba umfaki-sicelo, amalungu okanye abalawuli okanye abafaki-mali ababambe intambo, bakhe bafunyanwa benetyala lokwaphula imithetho engephi ye-MLRA, imimiselo, imiqathango yemvume okanye olunye ulwaphulo-mthetho kwezokuloba, ebudeni bokuba nelungelo lokwexeshana, okanye bahlawule intlawulo yokuvuma ityala ngokwaphula i-MLRA, imimiselo yayo okanye imiqathango yemvume, loo mfaki-sicelo uya kohlwaywa.

6.3 Ulwabiwo lwezame

Igunya elithunyelweyo lizakwabela ubukhulu malunga nesithandathu samalungelo okuloba, sigunyazise malunga imkhumbi emi-6 yokuloba kulefishari. Ngokunjalo, umngeneli ngamnye othe waphumelela uzakunikwa ilungelo lokusebenzisa inqanawa ibe nye kuphela.

7. Imikhumbi efanelekileyo

Umkhumbi ofanelekileyi ukurhweba kushishino lwe-demersal shark ngumkhumbi :

- unobuncinane bobude obubhaliswe yi- SAMSA obuzimitha ezimalunga ne-10. Imikhumbi emiincinane isenokuqwalaselwa ngokusekelwe kwindlela ezisebenze ngayo ekulobeni i-demersal shark;
- onobuchule bokujonga umkhumbi obusebenzayo (vessel monitoring system); kunye
- olungele ukuloba i-demersal shark.

8. Ukubandanyeka kumacandelo amaninzi

Abo banelungelo lokuloba i-demersal shark abazikuvalelwa ukuba bafumane amalungelo oshishino orhwebo lokuloba lweentlanzi ekuLuhlu A (cluster A) no Luhlu B (cluster B). Abanelungelo kwifishari ye-demersal shark, kuquka abafaki-mali (ii-shareholder) ababambe intambo okanye amalungu (xa iyi-close corporation) namalungu amaqela abaphathi abayi kuvunyelwa ukuba babe namalungelo orhwebo lwentlanzi kuLuhlu C (cluster C naku Luhlu D (cluster D) nasekulobeni iintlanzi eziqhelekileyo (Traditional Line Fish).

9. Intlawulo yokwenza isicelo nerhafu

Intlawulo yokwenza isicelo kulefishari iza kuqulunqwa kujongwe oku :

- Ixabiso lenkqubo yonke yolwabiwo lwamalungelo, kuquka ukucetyiswa, ukwamkelwa, uvavanyo lwezicelo, ukuqinisekiswa, izibheno nohlolo; kunye
- Nexabiso lentlanzi enikezelwayo ngelithuba lelungelo..

Irhafu yonyaka ehlawulwa ukusukela ngomhla woku-01 kuJanuwari 2006 iyakuqulunqwa , emva kokubonisana nabo banamalungelo. Iirhafu ezihlawuliweyo ziya kusetyenziswa liSebe ukukhawulelana neendleko zaminyaka le zokulawula, ukuthobela nokwenza uphando.

10. Imilinganiselo yokulawula

Le milinganiselo yokuphatha ichatshazelwe apha ngezantsi ibonisa imigaqo yeSebe yokulawula lefishari emva kokunikezela ngamalungelo okuloba.

10.1 Ukuphathwa ngendlela yonakekelo lwendalo kwamashishini okuloba

Olu shishino lokuloba luyakuphathwa ngokungqamene nendlela yonakekelo lwendalo.(i-"EAF Indlela yonakekelo lwendalo kushishino lokuloba yinkqubo engumdibaniso equka konke, eyaziyo ukuba ukuloba nentshukumo zasemhlabeni ezingqamene nako zinefuthe kubume nemeko jikelele yezolwandle. Le ndawana yomgaqo-nkqubo yoshishino lwe-demersal shark ayizami kunika ixwebhu lomgaqo-nkqubo nge EAF kushishino lwe-demersal shark. I-EAF kushishino lwe-demersal shark izakunikwa inkcukacha ezithe vetsha kwiSikhokelo soLawulo loShishino nge-Demersal. Umzantsi Afrika ushiyeke uzibophelele kumhla ojoliswa ku-2010 wokuzalisekiswa kwe-EAF kurhwebo lwentlanzi.

10.2 Ukunciphisa ukubanjwa

Ukubanjiswa kwe-hake ne-kingklip kweli candela kuyaxhalabisa kakhulu. Imida ebekiweyo ngoku kwezi ndidi izakugcinwa kwaye inokucitshiswa nangaphezulu. Imida yokubambisa izakwaziswa nakookrebe abalizulu (blue sharks) ne-mako ukukhusela ukuba kunabikho joliso lukhoyo kwezi ndidi.

11. Imilinganiselo yokusebenza

ISebe lizofaka indlela ezininzi zokuvavanya ukusebenza ngelithuba lamalungelo orhwebo olobo ngentlanzi. Kujongwe ukuba ithuba lokuqala lokuvavanya indlela yokusebenza libe semva konyaka omnye, ze emva koko libe rhoqo emva kweminyaka emithathu..

Nangona iSebe liza kuyiqukumbela indlela yokuvavanya emva kokubonisana nabanini malungelo, ,lindlela imbhanxa ilandelayo isenokusetyenziswa:

- inguqu
- ukunciphisa ukubanjiswa kwentlanzi ngempazamo;
- indlela yokubambisa idemersal shark; no
- ukuthotyelwa kwemithetho nemimiselo esebenzayo.

Injongo yokuvavanya indlela yokusebenza ngolu hlobo kukuqinisekisa ukuba iinjongo zoshishino lokuloba ziyafikelelwa kwaye iindlela zokulawula neenkqubo zihlala zisexesheni yaye zifanele eli shishini.

12. Inkqubo yokwakha umkhanyo

Inkqubo yangoku yeSebe yabakhi-mkhanyo iza kwandisa ukuquka ndawonye ukujonga ukuthotyelwa. Abanini malungelo bazakufuneka bathwale umakhi-mkhanyo ngohambo ngalunye. Abanini malungelo kuzakufuneka bazithwale indleko zenkqubo yokwakh' umkhanyo.

13. Imiqathango yemvume

Imiqathango yemvume yolu shishino iza kukhutshwa rhoqo ngonyaka. Imiqathango yemvume iya kuqosheliswa emva kokuba kukhe kwafakwan' imilomo nabasele benamalungelo ekulobeni kwaye iza kumana ihloliswa xa kuyimfuneko.

ISIHLOMELO A

Abanamalungelo kwifishari i-demersal shark bazokuvunyelwa ukuba balobe uhlobo lwentlanzi lwe Mustelus ne Galerrhinus.

Abanamalungelo kusenokufuneka ukuba bangalobi okrebe be-harvest ne-land oceanic, kuqukwa blue sharks, mako, hammerhead, oceanic whitetip ne thresher sharks Ukongeza, okrebe abazi zilwanyana ezikhuselweyo, kuqukwa iragged tooth ne great whites azinokulotywa.

Abanamalungelo abazikuvenyelwa ukuloba okrebe kumanzi olwandle akufutshane ne Wild Coast nomxweme laKwaZulu Natal.



**UMNYANGO WEZEMVELO NOKUVAKASHA
IGATSHA LEZASOLWANDLE KANYE NOKUPHATHWA KWEZOGU**

**UMGOMO WOKUNIKEZWA KWAMALUNGELO NOKUPHATHWA KWI
DEMERSAL SHARK FISHERY: 2005**

**LOLU HLAKA OLUNGAPHELELE KUMELWE LUFUNDWE KANYE NE-DRAFT
GENERAL POLICY EKWABIWENI KWAMALUNGELO AHLALA ISIKHATHI ESIDE
KWI-COMMERCIAL FISHING : 2005 (etholakala ku-www.mcm-deat.gov.za)**

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1. Isethulo

Lelipulani elingaphelele libukwa ukwabiweni kwamalungelokwi demersal shark fishery futhi uNgqongqoshe Wezemvelo Nezokuvakasha: Branch Marine ne Coastal Management ("uMnyango"). Lomgomo kumele ufundwe neGeneral Policy ekwabiweni kanye nokuphathwa kwamalungelo amade: 2005 ("i General Policy").

Isidingo salomgomo ukubeka phansi izindlela ezizolandelwa ekukhishweni kwamalungelo amade kwi demersal shark. Eziningi awamasha. Asetshenziswe uNgqongqoshe nezikhulu eziphathisiwe zoMnyango Wezemvelo Nezokuvakasha: Igatsha Lezasolwandle Nokuphathwa Kogu ("uMnyango") ekukhipheni amalungelo kudala futhi ngezinga elithile le nqubo iyakubhala lokho kubonelela.

Amanye amalungelo akuqala akhona futhi kwi draft policy. I Demersal Shark Fishery Management Manual izoqedwa nge 2006. Le manual iyachaza i management methodology kanye nezindlela kwi fishery.

UNgqongqoshe ufuna ukunikeza amandla we section 18 ukunikza e demersal shark fishing ngoikwe section 79 we Marine Living Resources Act 18 of 1998 ("i MLRA") kubantu abasezikhundleni eziphezulu. Izincwadi zenqubo ziyoqondisa isikhulu esiphathisiwe ekwenzeni izinqumo mayelana nale ndawo yokudoba

2. Okuphathelele nokudoba

Emva kokuthandwa kwe tuna longline fishery enyuka ngo 1960's, abadobi ashintshe aza kwi lucrative stocks. Abadobi asebenzisa i longline gear ukutholwa kwe hake kanye ne kingklip ngaphansi kkucasha ngaphans kwezmvume zikashaka. Lapho i by-catch limits kwi hake kanye ne kingklip kwi k fishery fishing effort yehlika ngempela. Ngaphambi kuka 1998 kwanikezwa izimvume ezingaphezu kuka 30 ukufuna oshaka, kodwa ngenxa yokungezi kahle kwayo kwi total applied effort TAE lezimvume zehliswa zabangu 23 permits ngo 1998. ITAE yaphinde yehliswa yaba ngo 2004 kwaba u11.

Okwamanje ushaka kwi longline fishery bafuna i pelagic sharks (blue kanye noshaka) kanye ne demersal (oshaka be hound, okuyi *Galeorhinus galeus* ne *Mustelus mustelus*) ngokusebenzisa i surface noma i bottom set gears. Imikhumbi efuna ama hound sharks mancane kunalawo anga pelagic sharks njengoba kumele babe kuphela kwi coastal waters. Njengoba i gear ifuna oshaka abawu blue kanye mako uyafana newe tunas kanye ne swordfish

isinqumo sathathwa ukukhipha i pelagic shark fishing kwi sector ye longline apha the Indawo enkulu ye pelagic sector ngokuqala kuka 2006. Kusukela ngo 01 January 2006, ngeke kusafunwa i pelagic shark fishery.

Labo abanamalungelo oshaka banezinye izimvume kwezinye izindawo ezingo , hake longline kanye ne tuna pole. Ngokunjalo ke i fishery yoshaka isebenzisa imikhumbi uma bengenzi okunye kwamanye ama sector.

Oshaka izilwane ezihlal izikhathi ezinde abakhombisa kodwa ukuthi abanawo amanzi angcolile, akhula kancane , kanye nokuzalana okuncane okubenza bangasetshenziswa kakhulu. Oshaka bahlala kakhulu ngaphezulu, kanti ukususa kwalezilwane kungathikameza Imarine ecosystems. Ukuthinteka koshaka kuhlangene nge adult biomass. Ngokunjalo , uma ngabe kunabantu abadala kungenza imvelo futhi.

Imikhumbi eminingi akwi demersal fishery kunyukile ngonyaka nonyaka, izinombolo ziyanyuka emikhunjini ngu 14 ngo 1999. Imikhumbi ngu 5 ayasebenza kusukela ku 2003. Njengoba ukudoba kuhambisana nesikhathi onyaka (kubanjwa kakhulu ngesikhathi sasebe sika) kunzima ukubona ukuthi kubanjwa okungakanani ngomzamo owodwa unyaka nonyaka, enyuke kakhulu. Ungakabi u 2001 ukubamba kuka *G. galeus kucishe kuwu 34* thani ngonyaka, kodwa kusuka ngo 2001 okubanjwayo kunciphile ngaphansi kuka 20 thani ngonyaka, ngaphansi kuka 3 thani obanjwe ngo 2004 (okuncane kwi rekhodi). Ngo 2001-2002 ukubhekwa kwe stock kukhombise ukuthi izilwanyana ezibanjwa kakhulu i *Galeorhinus galeus* , kanti ama longliners amathathi gonyaka ka 2001 kanye nonyaka 2002. Oshaka abakwazi ukuthatha ama fisheries amakhulu.

3. Izizathu ze Over-arching fishery

I zizathu ze over-arching kwi fishery yilezi:

- Ukunyusa i transformation profile ye;
- ukuvumela ukufuna i demersal yoshaka. (bheka i-**Annexure A**). Ama Pelagic akumelwe afunwe;
- Kwehliswe i by-catches ye hake kanye ne kinglip;
- Kuthuthukise ukusiza kwi demersal sharks ukunyusa koshaka abanjwayo; kanye
- Kwenzeke ukuthi imvelo ingathikamezeki kwi fishery.

4. Ubude bamalungelo

Kuzobukwa lokhu okulandelayo –

- itransformation profile ye fishery;
- ukunikeza i marginal state ye fishery,

Kuzokhishwa amalungelo esikhathini esingange minyaka engu 8 (kusuka ngo 01 January 2006 kuya ku31 December 2013), uMnyango uyohlola njalo abanikazi bamalungelo ekubukweni kwendlela abenze ngakho (buka i **Paragraph 11 ngaphansi**).

5. Abantu abasebasha

Labo banikazi bamalungelo abaye bahluleka ukuguquka, abahlulekile ukusebenza nabangazange bavumelane ne-MLRA, bangase bathathelwe indawo abasha. Nokho akubonakali ukuthi kuyovunyelwa izikebhe ezingaphezu kuka-6 kule ndawo yokudoba.

6. Izindlela zokubheka

Abaceli babhekwa ngokwe “*exclusionary criteria*”. Abasha kanye nalabo abasebadala bayo aseswa ngendlela ezehlukile ngokwe “*comparative balancing criteria*”. I cut-off score noma ba renkwe ukuz kutholakale labo abaphumelele.

6.1 I *Exclusionary criteria*

Ngaphandle kwe criteria echazwe kwi General Policy mayelana nokufakwa kwezicelo kanye neminingwane engalungile, isikhulu esiphathisiwe siyobakhipha labo abangalandeli lokhu:

- (a) **Uhlobo lomceli:** Izicelo eziyobheka ilezo ezihuma ezinkampanini ngokomthetho we Close Corporations Act 69 ka 1984 kanye ne Companies Act 71 ka 1973. Abaphuma kuma trust kanye nabazimeleyo ngeke baze babukwe. Abantu (okungukuthi abantu ngabanye noma osomabhezini abazimele) ngeke banikwe amalungelo. Labo abanamalungelo manje kufanele bafake isicelo

beyi-close corporation noma inkampani futhi bayobhekwa njengabafake izicelo zamalungelo esikhathi esijana uma behambisana neziqondiso eziseMqulwini Ovamile

- (b) **Ukuthembeka:** Uma inkampani efake isicelo, noma amalungu ayo noma abanamasheya abalawulayo beye baboshelwa ukweqa umthetho we-MLRA, imibandela yezimvume noma amanye amacala aphathelene nokudoba ngesikhathi benezimvume zokudoba zesikhathi esijana ngeke banikwe izimvume zokudoba *i-demersal shark*. Lokhu akuhlangani ukukhokha kwenhlawulo yokuvuma icala. Lowo ofaka isicelo ngeke ayithole imvume uma leyo nkampani noma amalungu ayo noma abaphathi beye baphucwa amalungelo okudoba ngaphansi komthetho we-MLRA, noma kwathathwa izinto ngaphansi koMthetho Wokuvimbela Ubugebengu Obuhleliwe 121 Ka 1998 noma we-MLRA.

Izinqumo zingase zigodliwe ezicelweni uma inkampani efake isicelo (noma amalungu ayo, abaphathi noma abanamasheya abalawulayo) isaphenywa ngokwephula umthetho we-MLRA.

Abanamalungelo kudingeka bakhokhe imali yezindawo abafuna ukudoba kuzo. Labo abanamalungelo abaye babika izinhlanzi ezincane abazibambile ukuze babalekele ukukhokha ngeke bafakwe. Abanamalungelo abangakakhokhi bayojeziswa ngenqubo yokulinganisa ebekwe ngezansi. Nokho uma labo abafake isicelo bewathola amalungelo, ngeke banikwe incwadi yemvume yokudoba kuze kube yilapho sebekhokhe izimali ezisele eMnyangweni.

- (c) **Ama Paper quotas:** ama Paper quotas njengoba echazwe kwi General Policy izokukhishwa.
- (d) **Ukutholakala kwemikhumbi efanele:** Abaceli kumele bakhombise ukuthi banalo ilungelo emkhunjini ofaneleyo (buka *uparagraph 7 ngaphansi*).
- (e) **Ukungasetshenziswa:** Isikhulu esiphathisiwe singase senqabe ukuphinda sikiphe amalungelo uma laba ababenamalungelo okudoba isikhathi esijana bengakwazanga ukuwasebenzisa amalungelo abo okudoba *i-demersal shark* phakathi kuka- 2002 kanye no 2004.

6.2 I Comparative balancing criteria

Abafake izicelo zamalungelo nabanye abangase bangene bazovivinywa ngale nqubo yokulinganisa, ezosetshenziswa ukuze kubonakale ukuthi isicelo ngasinye sinesisindo kangakanani. Le ndinganiso engezansi kumelwe ifundwe kanye nendinganiso ehambisana nayo eMqulwini Ojwayelekile ukuze kutholakale olunye ulwazi. Lokhu kusebenza kakhulu *kweyezinguquko*.

(a) Ushintsho

Abacelu bayokubukwa ngalezizinto –

- Iphesenti yabantu abamnyama kanye nabesifazane abangabanikazi bezinkampani, abahola kakhulu, abaphethe kanye nasezindaweni eziphezulu.;
- Ukuthi abasebenzi (ngaphandle kwalabo abahola kakhulu) banamasheya.;
- I Affirmative procurement;
- Ukuhambisana ne-Employment Equity Act 55 of 1998 nokubakhona kwabantu abamnyama kanye nabesifazane ezindaweni ezehlukne zomsebenzi. Isikhulu esiphathisiwe singase sibheke nomehluko okhona kwabahola kakhulu nabahola kancane;
- Ukuhambisana nomthetho wokuthuthukiswa kwamakhono ezisebenzi nemali esetshenziselwe ukuqeqesha abansundu nokuhlanganyela ekufundeni;
- Uku investa emphakathini.

(b) Uku investa kwezokudoba

Kulabo abanamalungelo, isikhulu esiphathisiwe siyobuka lokhu:

- Uku investa kwimikhumbi efaneleyo neminye imishini. Uku investa ngokuthi ube namasheya kumaveseli kuyobukwa.. Abanamalungelo ngeke baklonyeliswe ngokwenza izivumelwano zokuthenga izikebhe.
- Uku investa ekwenziweni kanye nokumaketha kweziqalanziza. Ngakho ke isikhulu esiphathisiwe siuzobabuka labo aba investe kwi demersal woshaka kanye nokudayisa.

Ngokwabantu abasha, umnyango uzobuka uku investa kwimikhumbi , nokwenza kanye nezizinda zokuthengisa..

(c) Ukwenza kokudoba

Abanamalungelo bazo aseswa ngokubuka ukwenza kwe demersal shark fishing performance ngokwe medium-term period (2002 kuya 2004).

Abantu abasha bayobukwa ukuthi bayazi yini, banalo yini ulwazi kwi demersal shark.

(d) Ukuthembela kwi demersal shark

Isikhulu esiphathisiwe siyofuna labo abathembele ekudobeni ushaka ukuthi bathole ingxenye enkulu yenzuzo yabo yonyaka.

(e) Ukuthuthukiswa komnotho wasemzansi

Kufanele kuthuthukiswe ukutshalwa kwezimali emadolobhaneni amancane angasogwini amaningana. Isikhulu esiphathisiwe singase siklomelise labo abafake izicelo abaye batshala izimali emadolobheni amancane angasogwini angaphandle kwamadolobha amakhulu asePort Elizabeth naseKapa, ikakhulu oGwini OluseNtshonalanga. Abanikazi bamalungelo okudoba abatshale izimali emadolobheni amakhulu eKapa nasePort Elizabeth ngeke basolwe

(f) Imisebenzi

Ukuvula amathuba emisebenzi nokwandisa imisebenzi ngenxa yokukhishwa kwezimvume zokudoba zesikhathi esijana kungase kubhekwe, futhi ikakhulu, labo abafake izicelo abaye banikeza izisebenzi zabo lokhu

- Umsebenzi ophелеle;

- Medical aid kanye nempesheni;
- Izindawo zokusebenza eziphephile..

(g) Ukukhokhwa kwezimali zokudoba

Abafake izicelo zamalungelo bayohlawuliswa uma izimali abazikhokha eMnyangweni zisalele emuva ngaphezu kwezinsuku ezingu-60 kusukela bafaka isicelo

(h) Ukwethembela

Uma inkampani efake izicelo, amalungu ayo noma abaphathi bayo noma abanamasheya abalawulayo beye baboshelwa ukweqa umthetho we-MLRA, imibandela yezimvume noma amanye amacala aphathelene nokudoba ngesikhathi benezimvume zokudoba zesikhathi esijana, noma bakhokha inhlawulo yokuvuma icala ngokwephula umthetho we-MLRA, imibandela yezimvume, bayohlawuliswa.

6.3 Ukuzama ukunikeza

Isikhulu esiphathisiwe sizonikeza amalungelo angengaphezu kwayisithupha ukunikeza imikhumbi eyisithupha ukuba angadoba. Umuntu oyedwa uyonikezwa umkhumbi owodwa.

7. Imikhumbi efanele

Umkhumbi ofanele kwi demersal shark fishery umkhumbi onjena:

- Okungenani ibe nesishicilelo se SAMSA ibe namamitha angu 10.Imikhumbi emincane ingase ithathwe kwi demersal shark fishing ukwenza kwayo;
- iyasebenza I monitoring system; kanye
- ine giya ye demersal shark fishing.

8. Ukubandakanyeka kokunye

Abanamalungelo e demersal shark fishery ngeke bangafakwa kwi commercial fishing rights ku Cluster A kanye no Cluster B fisheries. Abanamalungelo kwi Demersal shark (kuhlanganise nabanamasheya abalawulayo noma amalungu (uma kuyi-close corporation) kanye namalungu eqembu eliphethe ngeke bavunyelwe ukuba namalungelo ku Cluster C kanye noCluster D fisheries.

9. Izimali zokungenela

Izimali zokungenela kwi demersal shark fishery izobekwa kanjena:

- Ukubiza kwamalungelo, kuhlangene ne consultation, ukutholwa, ukucutshunguliswa, ama appeals, kanye nokubukezwa.
- Nokubaluleka kwenhlanzi ngesikhathi sokunikezwa..

Izimali kumele zikhokhwe ngonyaka kusukela ku 01 January 2006 ziyonqunywa ngemva kokuxoxisana nabanikazi bamalungu.. Izimali ezikhokhwayo ziyosetshenziswa uMnyango ukuze unciphise izindleko zaminyaka yonke zokuphatha, ukuhambisana nohlelo nocwaningo.

10. Ukukalwa kokuphatha

Ukuphatha nokukalwa kwayo kuzochazwa lapha ngaphansi ukukhombisa umnyango amalungelo ayenikeziwe yale fishry.

10.1 Indlela ye Ecosystem ekuphatheni kwi fishery

Le fishery izophathwa ngokulandela i ecosystem approach kwi fisheries ("EAF"). I ecosystem approach kufisheries ibuka yonke into kanye nomgomo olandela ukuthi nanoma yini eyenziwe kodwa imvelo yasolwandle ingaphazamiseki. Lendlela ye demersal shark fishery policy ayizami ukunikeza I policy statement kwi EAF kwi demersal shark fishery. I EAF kwi demersal shark fishery izochazwa kwi Demersal Shark Fishery Management Manual. I South Africa izimisele ukubuka unyaka 2010 okuqalisa kwe EAF in.

10.2 I By-catch mitigation

Ababambi be hake kanye ne kingklip kule sector ihlale icatshangwa. Okwamanje ama by-catch limits azogcinwa manje kodwa azoncishiswa ngokuhamba kwakho. Ama by-catch limitations azophindwe aqaliswe kwi blue kanye ne mako sharks ukuvikela lezizilwazi.

11. Ukukalwa kokusebenza

Umnyango uzokwenza izinto eziningi eizosetsenziswa ngesikhathi unamalungelo. Ukukala kokusebenza kokuqala kuzothatha ngonyaka wokuqal emva kwalokho emva kwalokho iminyaka yesithathu.

Yize umnyango uzoqeda le criteria kulaba abathole amalungelo, emva kokuba e consultile amalungu, lendlela ezolandela iyosebenziswa:

- I transformation;
- I by-catch mitigation;
- Ukwenza kokwenza kwe demersal shark; kanye
- ukuthobela imithetho ebhaliweyo.

Inhloso yokukala izinga eliyilo iyoba ukuqinisekisa ukuthi imigomo yendawo yokudoba iyafinyelelwa nokuthi izindlela nezinqubo zokuphatha zihlala ziyilungele indawo yokudoba

12. Uhlelo lokubuka

Umnyango uphinde ubuke ukuthi uyawuthobela yini umthetho. Ngahezu kwalokho uzobe uqhubeka unyusa uhlelo lwe fishery. Amalungu ayoziwonela ezindlekweni zohlelo lokubuka.

13. Ukuvunyelwa ukudoba

Izimvume zikhishwa njalo ngonyaka. Izimo zezimvume ziyonqunywa ngemva kokubonisana nabanikazi bezimvume futhi ziyobukezwa uma kudingeka.

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