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GENERAL NOTICES

NOTICE 750 OF 2013

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

The Minister of the Department of Agriculture, Forestry and Fisheries hereby publishes the final:

- (i) General Policy on the Allocation and Management of Fishing Rights: 2013 (Schedule A); and
- (ii) 2013 Fishery Specific Policies for Demersal Shark, Hake Handline, Kwazulu-Natal Prawn Trawl, Oyster, Squid, Traditional Linefish, Tuna Pole-Line and White Mussel (Schedule B),

for general information.

SCHEDULE A

GENERAL POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS: 2013



ISEBE LEZOLIMO, AMAHLATHI NEZOKULOBA

**UYILO OLUHLAZIYIWEYO LOMGAQO-NKQUBO JIKELELE UKWENZELA UKWABELWA
NOLAWULO LWAMALUNGELO OKULOBA: 2013**

LO MGAQO-NKQUBO KUFUNEKA UFUNDWE NOMGAQO-NKQUBO WEZOKULOBA OBALULIWEYO

(ufumaneka kwa: www.daff.gov.za)

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Le ncwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu**

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ISAHLULO A: INTSHAYELELO KUNYE NEMVELAPHI

1. Intshayelelo

- 1.1 Lo ***Mgaqo-nkqubo ngokuBanzi wokuNikezelwa noLawulo lwamaLungelo okuLoba*** ukhutshwa nguMphathiswa wezoLimo, amaHlathi kunye nokuLoba kwaye uza kwaziwa “**njengoMgaqo-nkqubo ngokuBanzi**”. Lo mgaqo-nkqubo Jikelele kufuneka ufundwe kunye nemigaqo-nkqubo eza kubizwa ngokuba **yimigaqo-nkqubo eyodwa yokuloba** okanye **imigaqo-nkqubo eyodwa yeCandelo** ethe yamkelwa kwicandelo ngalinye lezokuloba. Kumgaqo-nkqubo ngokuBanzi imiba eliqela echaphazela amacandelo okuloba iyachotshelwa kwaye ibhalwe kuluhlu olukwiphepha lesi-2. Ezi zizathu zikumigaqo-nkqubo osetyenziswa ngokufanayo zisekwa setyenziswa kwisiqulatho semigaqo-nkqubo eyodwa yokuloba, ethi idandalazise injongo zoMphathiswa ezizodwa malunga nokunikezelwa kwamalungelo kwinkampani nganye yokuloba. Abo baza kufaka izicelo namaqela anomdla kufuneka afunde lo mgaqo-nkqubo ngokuBanzi kunye nemigaqo-nkqubo eyodwa yokuLoba efanelekileyo.

2. Ukusetyenziswa koMgaqo-nkqubo ngokuBanzi

- 2.1 Lo Mgaqo-nkqubo ubhekiselele:
- (a) Ekunikezelweni kwamalungelo kula macandelo okuloba alandelayo: imikhumbi eloba phakathi elwandle, imikhumbi eloba ihake kufutshane nonxweme, iHorse Small Pelagics, Patagonian Toothfish, unamvunaq wonxweme olusemaZantsi, Hake Long Line, West Coast Rock Lobster (Off Shore), Squid, Tuna Handline, Seaweed, Shark Demersal, Handline Hake, West Coast Rock Lobster (Near Shore), Traditional Linefish Oysters, White Mussels, Netfishing (Trek- and Gillnets and Beach Seine), Kwazulu-Natal Beach Seine kunye necandelo lokuLoba loshishino olusaKhulayo.
 - (b) Ukunikezelwa kwamalungelo okusebenza kwimizi yoshishino elungiselela ukuba intlanzi ingonakali.
 - (c) Ulawulo lwemvume yokuloba kunye nemisebenzi yaselwandle engabhekiselele ekutyeni efana nokufota phantsi emanzini.

3. linjongo

3.1 linjongo zomgaqo-nkqubo ngokuBanzi, kunye nemigaqo-nkqubo ejongene nokuloba, kuku:

- (a) xhasa ubukho bokutya nokuphuhliswa kwezentlalo noqoqosho ngokusetyenziswa ngokuzinzileyo kobuncwane baselwandle;
- (b) xhasa inguqu, ukwandisa ukuthatha inxaxheba ngokuyintsingiselo (ukwandisa ukuthatha inxaxheba, ukudala ixabiso, uqhagamshelwano) kunye nokukhula kwicandelo lokuloba;
- (c) xhasa kunye nokuphuhlisa iindlela zokulawula ezijoliswe ekuxhaseni ukusetyenziswa ngokuzinzileyo/nolawulo lobuncwane bokuloba;
- (d) fikelela kwinqanaba lokwamkelwa, ukhuseleko kunye neenxaso yezoshishino lwabalobi abasakhulayo;
- (e) xhasa ukwamkelwa kokuxhomekeka komnye nomnye kwisixokelelwane sezentlalo, inkcubeko, ezoqoqosho kunye nezendalo soshishino lwabalobi abasakhulayo;
- (f) fikelela ekuhlanganisweni kwendlela yokunikezelwa kwamalungelo okuloba ubuncwane baselwandle kuluntu;
- (h) xhasa ukunikezelwa kwamalungelo okuloba intlobo ngeentlobo zobuncwane baselwandle;
- (i) qinisekisa uphuhliso oluzinzileyo loshishino lokuloba oluchongwe njengolusakhulayo, kuqinisekiswa ukuba ushishino olusakhulayo loluntu luxhamla kakhulu kobu buncwane kwaye ngabona baxhamli bangundoqo;
- (j) ukuqalisa amanyathelo kunye neendlela ezibeka phambili ushishino olusakhulayo lokuloba kushishino lokuloba; kunye
- (k) nokuqalisa iindlela nemibutho exhasa uluntu, intsebenziswano kulawulo kunye nendlela esekwe luluntu yokuloba nokulawula ubuncwane obuphilayo baselwandle kwicandelo loshishino olusakhulayo lokuloba.

4. Imigaqo-nkqubo kaRhulumente enguNdoqo

4.1 Imigaqo-nkqubo ngokuBanzi neyodwa yokuloba ilandela imigaqo-nkqubo engundoqo karhulumente, ebizwa ngokuba sisiCwangciso soPhuhliso seSizwe (NDP) isiCwangciso esiHlangeneyo sokuKhula noPhuhliso (IGDP) sezolimo, amahlathi nokuloba, iNkqubo eNtsha

yokuHluma (NGP) isiCwangciso soMgaqo-nkqubo wokuSebenza kwezoShishino (IPAP) neNkqubo eBanzi yoPhuhliso lwamaPhandle (CRDP)

4.1.1 IsiCwangciso soPhuhliso seSizwe

4.1.1.1 IsiCwangciso soPhuhliso seSizwe sinika umbono wexesha elide. Sichaza indawo esinqwenela ukufikelela kuyo kwaye sichonga indima amacandelo ohlukileyo oluntu ekufuneka ayidlale ekuphumezeni loo njongo. IsiCwangciso soPhuhliso seSizwe sijolise ekupheliseni intlupheko size sinciphise ukungalingani ngonyaka wama-2030. Ngokwesi sicwangciso, uMzantsi Afrika ungaziphumeza ezi njongo ngokusebenzisa amandla abemi bawo, ukhulise ezoqoqosho olubandakanye wonke ubani, ngokwakha izinto abemi abanokuzenza, nokuqaqambisa umthamo wombuso kunye nokuxhasa ubunkokeli nobuqabane kulo lonke ilizwe.

4.1.2 IsiCwangciso esiHlangeneyo sokuKhula noPhuhliso (IGDP) sezolimo, amahlathi nokuloba

4.1.2.1 Esi sicwangciso sibonelela ngombono wobume bangoku becandelo lokuloba kunye nemingeni elijongene nayo. Sisekwachaza iinjongo nezenzo ezifunekayo ukuphumeza umbono wolawulo lwezokuloba eMzantsi Afrika kwaye ngokwenza oko uqinisekisa icandelo elizinzileyo nelinemveliso.

4.1.3 INkqubo eNtsha yokuHluma (NGP)

4.1.3.1 INkqubo eNtsha yokuHluma ibonelela ngobuchule obuzithembileyo, obungumfanekiso ngqondweni nobusebenza kakuhle bokudala izigidi zemisebenzi emitsha efunekayo eMzantsi Afrika. Isekwabonisa umbono wokuphumeza ngentsebenziswano uqoqosho noluntu oluphuhle ngaphezulu, lwentando yesininzi, olumanyeneyo nolulinganayo ngexesha elingekho lide kakhulu, kuhlumo oluzinzileyo. Obu buchule bubeka iimpawu zokudalwa kwemisebenzi kunye nokukhula kwaye kuchonga apho inguqu esebenzayo kubume nobunjani bemveliso bungavelisa uqoqosho oluqakayo noluthathela ingqalelo okusingqongileyo kwixesha elingelide ukuya kwelide.

4.1.4 IsiCwangciso soMgaqo-nkqubo wokuSebenza kwezoShishino sowama-2012 (IPAP)

4.1.4.1 Ukungenelela kukaRhulumente okuqulethwe kwisiCwangciso soPhuhliso seSizwe noMbona wonyaka wama-2030, iNkqubo eNtsha yokuHluma kunye namanye amaxwebhu emigaqo-nkqubo kuzama ukuqinisekisa ukuba amanyathelo abalulekileyo axhasa ukwakhiwa ngokutsha koqoqosho

aqinisekisiwe ukuze sibe kwindlela eyongeza ixabiso nekhulisa ukusebenza ngokomelela. IsiCwangciso soMgaqo-nkqubo wokuSebenza kwezoShishino yakhelwe kwaye ingundoqo nentsika yoko kungenelela.

4.1.5 INkqubo yezoPhuhliso lwamaPhandle eDibeneyo

4.1.5.1 I-CRDP sisicwangciso-qhinga esiphambili kwiSikhokelo-nqubo seSicwangciso-qhinga seSigaba esiPhakathi sikarhulumente (iMTSF). Uyilo lwenkqubo lwesenzeko lwezifundo ezifundwe kwiindawo ekwakuqalwe kuzo ezazikhethwe nge ngokuprofayila uqoqosho lwezentlalo, iinkqubo zokuthatha inxaxheba koluntu nentsebenziswano phakathi korhulumente.

4.1.5.2 I-CRDP yahlukile kwizicwangciso-qhinga zikarhulumente kwindawo ezisemaphandleni kuba isekwe kwindlela yesicwangciso sothatho-nxaxheba olubonakalayo loluntu kunendlela yongenelelo kuphuhliso lwamaphandle. Ijoliswe ekubeni yimpendulo esebenzayo kwindlela nokufumaneka kokutya ngokwandisa usetyenziso nolawulo lwemithombo yendalo ukuze kudalwe uluntu lwamaphandle olunozinzo olunomdlamko, nolulunganayo.

4.1.5.3 I-CRDP kumele iphucule imigangatho yokuphila nentlalontle nokulungisa iintswela bulungisa zangaphambili ngongenelelo olusekwe ngamalungelo nokulungisa iipateni ezikekeleyo zokusasaza nobunini bobutyebi nee-asethi.

4.1.5.4 Injongo yesicwangciso-qhinga se-CRDP ngoko ke kukuququzelela uphuhliso oludityanisiweyo nokudibanisa uluntu ngeendlela zokuthatha inxaxheba kwintsebenziswano nalo lonke uluntu lwamacandelo.

ISAHLULO B: INDLELA NENKQUBO YOKUNIKWA

5. Ukunikezelwa kwamaLungelo okuLoba

5.1 Umthetho weNdalo ePhilayo eselwandle we-18 luka-1998

5.1.1 Inguquko yoshishino lokuloba yinto efunekayo ngokomgaqo-siseko nendlu yowiso-mthetho. Inqwelo yokuqala yokukhuthaza inguqu yoshishino lokuloba laseMzantsi Afrika nguMthetho weNdalo ePhilayo eselwandle we-18 luka-1998 (i “MLRA”).

5.1.2 Enye injongo ebalulekileyo ye-MLRA kukubonelela ngoxhatshazo olucwangcisiweyo lwendalo ephilayo eselwandle, nokubonelela ngokwenza ulawulo lwendalo ephilayo eselwandle ngendlela enobulungisa nelungileyo ukuze kuxhamle bonke abemi boMzantsi Afrika.

5.2 Imeko yomthetho yeLungelo lokuLoba

5.2.1 A “malungelo okuloba” abelwe phantsi kwe-MLRA ayingomalungelo empahla kwaye kufanele aziwe njengemvume yasemthethweni yokuvuna indalo ephilayo eselwandle ngexesha elithile. Ngokunjalo, ukuhlaba okanye ukurhoxisa akwenzi ukuba kuhluthwe amalungelo empahla kwakwintsingiselo yecandelo lama-25 loMgaqo-siseko okanye uMthetho wokwaHlutha wama-63 ka-1975. Oku akudibenanga necandelo le-18(6) le-MLRA, elibonelela ukuba ilungelo lokuloba lisebenza kangangexesha elimiselwe nguMphathiswa (okanye igqiza lakhe) emva koko libuyela emva ngokuzenzekelayo kuMbuso.

5.2.2 Ilungelo lokuloba libonelelwa umntu othile okanye iqumrhu, ngokwecandelo lama-21 le-MLRA, ilungelo lisenokungagqithiselwa ngaphandle kwemvume yoMphathiswa okanye igqiza lakhe. Ekufeni, ekuthinjweni, okanye ukutshona komnikazi welungelo, ilungelo liba sezandleni ngokulandelelana kumabi-lifa, umphathiswa okanye umntu owenza intengiso yempahla yeshishini kwaye ilungelo lingaqhubeka lisetyenziswa ngexesha elivunyelwa ngamalungiselelo omthetho asebenzayo.

5.2.3 Naluphina ugqithiselo lwelungelo lokuloba kwiqela lesithathu okanye intengiso yezabelo/umdlawelungu obangela ukutshintsha kolawulo lwenkampani/iqumrhu losondelelwano okanye okubangela inkampani/iqumrhu losondelelwano libe njengelingaguqulwanga ukusukela ngomhla

wokunikwa ilungelo lokuloba isicelo sifuna imvume ebhaliweyo phambi kokuba uMphathiswa asiphumeze.

5.3 Ukunikwa kwelungelo lokuloba elunguNdoqo neNgqwalasela yoLawulo

Lo Mgaqo-nkqubo jikelele nemigaqo-nkqubo ethe ngqo yoshishino lokuLoba zisekelwe kwiinqobo ezilandelayo ezikhokela ukunikwa nolawulo lwamalungelo okuloba.

5.3.1 Nguqu

- (a) I-MLRA ifuna abathathi zigqibo bacingele imfuno yokuhlengahlengisa ushishino lokuloba ukuze kulungiswe ukungalingani okwabangelwa yimbali nokuzuza izabelo zamashishini ezingenzala emisiweyo kumacandelo onke oshishino lokuloba. Inguqu yinto efunekayo ngokomgaqo-siseko eMzantsi Afrika.
- (b) I-Broad-Based Black Economic Empowerment Act 53 yowama-2003 yenye yenani lamanyathelo asemthethweni enza kuphuyezwe koku kufunwa ngumgaqo-siseko. Lo Mthetho ubonelela ukuba uMphathiswa woRhwebo noShishino unokukhupha ngesaziso indlela yokwenza kakuhle kuxhotyiso lwabantu abamnyama kwezozoqosho. Indlela zibonelela *“ikhadi lamanqaku elifanelekileyo”* ukukhangela inkqubela nsimo kwalapha kumashishini kananjalo nolwamkelo lwemiqulu yenguqu yamacandelo athile oqoqosho ngabachaphazelekayo abdlala indima ebalulekileyo nabachaphazelekayo kuloo macandelo.
- (c) UMthetho neendlela zaqwalaselwa kuphuhliso lwalo mgaqo-nkqubo nemigaqo-nkqubo ethile yokuloba. Nangona kunjalo, ngokucingela imeko yenkqubo yokunikwa amalungelo okuloba, uMphathiswa wezoLimo, aMahlathi nokuLoba khange akwamkele ukuhlengahlengiswa nebhakane ezisetiweyo kwiindlela ezinxulumene nobumnini nolawulo. Xa kunikezelwa ngamalungelo okuloba, ugunyaziwe onikwe igunya uyabizwa azokuthelekisa abafaki-zicelo omnye komnye, endaweni ngokuchasene nebhakane yangaphandle.
- (d) Inguqu yingqwalasela ebalulekileyo kakhulu kule nkqubo yolinganiso lothelekiso. Inkqubo inokhuphiswano kwaye akukho “bhakane” zingasetwa ngaphambili. Kwicandelo elingenaguqukanga ngokwaneleyo, abafaki-zicelo abanamanqaku enguqu aphezulu kunabanye abasoloko benethuba lokunikwa ilungelo lokuloba okanye inxanye ye-TAC okanye TAE

efumanekayo. Umgaqo-nkqubo uthi kwakwinkqubo efana nothelekiso lokhuphiswano, ulwamkelo lweemiqulu okanye ibhakane akusoloko kuyindlela efanelekileyo yokubhekisa phambili inguqu.

- (e) Umgaqo-nkqubo ngowokubhekisa phambili inguqu ze uphucule amanqanaba enguqu kushishino lokuloba. Kuphela yinguqu enobulunga eyakuqondwa, oku kuthetha, inguqu ebangela uncedo lokwenene kubantu ababehlelekile ngokwembali. Abantu babehlelekile ngaphambili kushishino lokuloba ngemeko zohlanga nesini ngokokufikelela kumalungelo. Kuyimfuneko ngoko ke ukukhuthaza uthath'onxaxheba lwabantu ababehlelekile ngaphambili kwalapha kuwo onke amasebe akushishino lokuloba. Kuyimfuneko ukulungisa ukungalingani okwabangelwa yimbali ze kuzuze ukulingana kwamathuba kwalapha kushishino lokuloba.
- (f) Kwinkqubo yokunikwa amalungelo okuloba, uhlanga nesini somfaki-sicelo, nakwiimeko zabantu abanokuthath' intshukumo ngokwasemthethweni, uhlanga nesini sabanini zabelo okanye amalungu, ulawulo, abanikezeli nabasebenzi, nabo bayakuqwalaselwa. Ukongeza, utyalo-mali loluntu lwamaqumrhu luyakuqwalaselwa.
- (g) Ubumnini boncedo bomfaki-sicelo bomntu omnyama, kwindlela yamalungelo okuvota angathintelwanga nomdla wezoqoqosho onxulumene nobumnini obulinganayo, buzakuhlolwa kwaye kuthathelwe ingqalelo. Ekuqinisekiseni ukuba amalungelo okuvota nomdla woqoqosho a*“wuthintelwanga”* na ugunyaziwe onikwe igunya unokuqwalasela i-Code 100 yoMthetho woXhotyiso loQoqosho wabantu abaNyama. Ubunzima obumiselwe kwi-Code abuzokusetyenziswa.
- (h) Amanqaku ongezelelweyo anokunikwa abo bafaki-sicelo baphumeleleyo ekuxhobiseni abasebenzi ngeetrasti zomsebenzi, kuphela ukuba umfaki-sicelo angaqinisekisa ukuba abasebenzi bafumana uncedo lokwenene (ngezahlulo, iitrasti okanye ulawulo oludibeneyo) oluvela kwi-trust. Ugunyaziwe onikwe igunya angamisela iqondo lenguqu yokuphumelela inani elikhulu lamanqaku ngobumnini babamnyama. Inani lamanqaku amaninzi obumnini babamnyama azakunikezelwa kubafaki-sicelo abazuze ela qondo.

- (i) Abalawuli abaphezulu okanye isigqeba solawulo lequmrhu elifuna lomfaki-sicelo wequmrhu bazakuqwalaselwa. Abalawuli abaphezulu okanye isigqeba solawulo jikelele sichaza abo bantu banoxanduva lokukhokela imisebenzi yesicwangciso-qhinga ze banike ingxelo ngqo nokuba kumongameli okanye kwibhodi. Ngeenjongo zenkqubo zokunikwa kwamalungelo okuloba, ulawulo lomfaki-sicelo luzakuhlolwa ngeendlela ezintathu. Kuqala, idatha efakiweyo kwiingxelo zokulingana zomsebenzi zizakuqwalaselwa, ukuba zikhona. Ukuba ayikho, umfaki-sicelo uzakucelwa afake idatha efanayo. Okwesibini, ubume bomongameli bebhodi kuza kuqwalaselwa. Okwesithathu, abafaki-sicelo baza kufuneka bafake idatha enxulumene nabahlawulwa kakhulu bomfaki-sicelo.

5.3.2 Uqwalaselo lwentlalo noqoqosho

Intlalo yoqoqosho inegalelo lokunikwa amalungelo okuloba kuluntu lokuloba, abasebenzi nabasebenzisi bayaqwalaselwa, ngakumbi kolo luntu nabantu abazimeleyo abazimeleyo kwindalo ephilayo eselwandle yokuphila kwabo.

Ingqwalasela yoqoqosho iquka imeko nexabiso lotyalo-mali izinto ezingahambiyo, intengiso neenkqubo nokubanakho okuloba ziyaqwalaselwe.

Ukuxhutyiswa kokhuphiswano lwezizwe loshishino okuloba laseMzantsi Afrika yingqwalasela ebalulekileyo.

Uthintelo lokungakhuphisani kushishino okuloba yingqwalasela ebalulekileyo.

5.3.4 Ingqwalasela zenzululwazi yezinto eziphilayo

Igalelo kwiintlobo zokujoliswe kuko kufanele kucingwe. Oku kuqala kwenziwa ngokuseta i-Total Allowable Catch (“i-TAC”) okanye i-Total Allowable Effort (“i-TAE”), okanye zombini.

5.3.5 Inkqubo yezilwanyana nokuzingqongileyo kuLawulo lwamashishini okuloba (i-EAF)

Ulawulo lwe-EAF lusekelwe kwiinqobo ezimbini, ithetha, ukugcina nokuncedisa impilo yezilwanyana nokulinganisa iifuno nexabiso lokwahluka koluntu.

5.3.6 Ukwenza okanye ukubanakho ukwenza

Ukukhula nophuhliso loqoqosho, ukudalwa kwamathuba omsebenzi, uphuhliso lwasemaphandleni, Uzinzo kusetyenziso lwezinto zendalo, ukufumaneka kokutya, ukongeza ixabiso, uphuhliso lweshishini nokudala amathuba omsebenzi, kwanjalo nothotyelo lwe-MLRA, iMigaqo, iimeko zemvume nezinye iimfuno zomthetho, ziyaqwalaselwa.

5.4. Inkqubo yokabiwa egqitywa ngamaCandelo

Ngeenjongo zenkqubo yokukunikezelwa kwamalungelo okuloba, amacandelo okuloba adityaniswe yangamacandelo amane okuhlola izicelo zamalungelo okuloba. Injongo yakudibanisa amacandelo okuloba yeyokulawula, yenkqubo kancinci nokuzimela. Noko kunjalo, inqobo eyahlukileyo yokuhlengahlengisa ingasetyenziswa kumacandelo alapha kwakweli candelo linye. Amacandelo ngala: Amacandelo A, B, C no-D.

(a) Icandelo A

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

(b) Icandelo B

- I-Hake Long Line**
- I-West Coast Rock Lobster (kude nonxweme)**
- I-Squid**
- I-Seaweed**
- I-Tuna Pole**
- I-Demersal Shark**

(c) Icandelo C

I-Handline Hake

I-West Coast Rock Lobster (kufutshane nonxweme)

I-Traditional Linefish

(d) Icandelo D

Umnatha wokuloba iiNtlanzi (trek- ne-gillnets; umnatha omkhulu wokuloba ngokurhangqa iintlanzi (i-beach seine)

I-KZN Beach Seine

Iizwembezi

IiMbaza eziMhlophe

5.4.1 Amacandelo A no B

Ukunikezelwa kobungakanani obufunekayo kumaCandelo A no A kuchatshazelwa kumgaqo-nkqubo othile wecandelo. Le migomo ilandelayo iza kusetyenziswa kunikezelo lobungakanano obufumanekayo:

- (i) Oogunyaziwe abanikwe igunya kumele bagqibe ngesixa esincinci emasinikwe abafaki-zicelo.
- (ii) Ngumgaqo-nkqubo karhulumente ukuxhasa amashishini amancinci, akhulayo naphakathi (iiSMME) nokuxhobisa ngokubanzi abantu abamnyama kwezoqoqosho. Anike isixa esinengqingqo kwi-TAC/TAE ukuya kwii-SMME. Ekunikeneni ingqwalasela Ukunikwa kwamalungelo okuloba kwii-SMME, oogunyaziwe abanikwe igunya kumele banike ingqwalasela kwindalo yendawo yokuloba neqondo lenguqu. Kwiindawo zokuloba ezinenguqu ngokupheleleyo nezimelwe zi-SMME, usasazo lungangafuneki.
- (iii) Kwiindawo zokuloba ezinemali eninzi ngokwendalo nezingafanelanga Phuhliswa lwe-SMME, oogunyaziwe abannikwe igunya kumele banikezele ubuncinane Ngaphantsi kwe-10% ye-TAC/TAE kubafaki-zicelo abanenguqu nabaqhube kakuhle kwicandelo.

Ukongeza kule migomo ingentla, oogunyaziwe abanikwe igunya banganikezela ngobungakanani obufunekayo obusekwe kwinqobo ejongo ukuzuzisa iinjongo ezichazwe kwimigaqo-nkqubo eyahlukahlukeneyo yecandelo, ezifana nenguqu nokusebenza. Ezi nqobo kumele ziyilwe ngendlela ekufanele iqinisekise ukuba bonke abafaki-zicelo abaphumeleleyo, nokuba bangakanani na, baza kukwazi ukuxhamla ukuba bayafikelela kwinqobo.

5.4.2 Amacandelo C no D

Abafaki-zicelo abaphumelele kumaCandelo C no D baza kunikwa isixa esiqingqiweyo se-TAC okanye i-TAE efunekayo.

5.5 Izintlu zethutyana

5.5.1 Ugunyaziwe onikwe igunya angakhupha izintlu zethutyana ukuze kuvakaliswe izimvo kuwo nawuphina umba nakulo naliphina icandelo.

5.5.2 Ugunyaziwe onikwe igunya angacela uluvo lokuba ingaba abafaki-zicelo bexeshana abaphumeleleyo baxhomekeke kwindalo kusinina ze athathe isigqibo ngezimvo azifumeneyo.

5.5.3 Oogunyaziwe abanikwe igunya bangamema iinkcazelo ebhaliweyo malunga nokuhlolwa kwezicelo phambi kokuba bathathe isigqibo.

5.5.4 Oogunyaziwe abanikwe igunya bangafakan'imilomo namaqela anomdla nachaphazelekayo ngendlela yokunikezelwa ngobungakanani obufukekayo okanye umsebenzi phambi kokuba kuthathwe ezi zigqibo.

5.6 Ukubandakanyeka kwamacandelo ngamacandelo jikelele, ayiyonjongo yomgaqo-nkqubo ukuthintela okanye ukutyhafisa ukuba namalungelo ngaphezu kwendawo enye ekulotywa kuyo.

5.7 Ukuthatha inxaxheba kwabafaki-zicelo

5.7.1 Kuza kuba yimfuneko ukuba abafaki-zicelo bazi bandakanye ngokupheleleyo kwiinkqubo nakwimisebenzi yecandelo lokuloba eyenza ixabiso.

5.8 Uyilo lwenqobo nobunzima

5.8.1 linkcukacha ezifakwe ngabafaki-zicelo ziza kufakwa kuvimba weenkukacha. Le migaqo-nkqubo, uvimba weenkukacha neenkukacha ezifakwe ngendlela yezihlomelo, ziza kusetyenziswa ukuphuhliswa inqobo ecacisayo nomlinganiselo wobunzima kwicandelo ngalinye ngeenjongo zokuhlola izingcoba ze emva koko ibe kukunikezelwa kobungakanani obufunekayo okanye umsebenzi.

5.9 linkcukacha emaziqwalaselwe

5.9.1 Indlela ecaciswe ngezantsi iza kwamkelwa ngugunyaziwe onikwe igunya nogunyaziwe wezibheni malunga neenkukacha eziza kuthathelwa ingqalelo ekuhlolweni kwezicelo.

(a) Izahlulo zefomu yesicelo ezingazaliswanga

Ngaphandle kokuba kuchaziwe, ukuba isahlulo sefomu yesicelo asizaliswanga, kuya kucingelwa ukuba eso sahlulo sefomu asimchaphazeli umfaki-sicelo. Ukuba icandelo linamanqaku amahle ayanyaniswe nempendulo, akukho manqaku ayakwabiwa. Uphawu oluthile luza kusetyenziswa lubonise apho kungazaliswanga, impendulo echasa umfaki-sicelo iya kucingelwa.

linkcukacha ezifakwe emva kwexesha

linkcukacha ezifakwe emva kosuku ekuvalwe ngalo azisayi kunikwa ngqwalasela, ngaphandle kokuba zicelelwe liQela eliQinisekisa amaLungelo okuLoba, ngugunyaziwe onikwe igunya okanye okanye nguMphathiswa njengxenye yokunikelwa kwamalungelo okanye inkqubo yesibheni. Indlela yokufaka iinkcukacha ezongelelweyo kwisibheni ichazwe ngezantsi.

linkcukacha ezivela kwimithombo yangaphandle

linkcukacha ezonakalisayo ezingesicelo esifunyenwe kwimithombo yangaphandle azisayi kuthathelw'ingqalelo nguMphathiswa okanye ngugunyaziwe onikwe igunya ngaphandle kokuba umfaki-sicelo unikwe ithuba lokwenza inkcazelo ebhaliweyo ngokumayela nezo nkcukacha.

Ukusetyenziswa kovimba weenkukacha weSebe

Umpathiswa okanye ugunyaziwe onikwe igunya angasebenzisa iinkcukacha eziqulathwe kuvimba weenkukacha weSebe ngexesha lenkqubo yokunikezelwa ngamalungelo exesha elide, kodwa kuza kwenziwa oko kangokuba abafaki-zicelo banikwe ithuba lokwenza inkcazelo ebhaliweyo malunga nokuchaneka kweenkcukacha.

Ukufakwa kweenkcukacha ezikhohliso okanye amaxwebhu nokungadandalazisi

Abafaki-zicelo okanye amameli abagunyazisiweyo kufuneka bangqine inkcazo phambi komkomishinala wezifungo bachaze phakathi kwezinye izinto, ukuba abangenisanga nkcukacha ziyinkohliso okanye amaxwebhu enkohliso kwaye khange bangachazi iinkcukacha abanazo. Ukufakwa kweenkcukacha eziyinkohliso okanye amaxwebhu enkohliso okanye ukungachazi iinkcukacha onazo kuya kubangela ukuba kubekho isizathu esizimeleyo sokwala isicelo. Kuya kucingelwa ukuba umfaki-sicelo ufake iinkcukacha eziyinkohliso ukuba kukho umahluko kwizinto phakathi kweenkcukacha ezifakwe ngumfaki-sicelo neenkukacha eziqulathwe kovimba beenkukacha beSebe nalapho iinguqulelo ezimbini zingenakukwazi ukuba zibe zezichanekileyo. Kuya kucingelwa kananjalo ukuba umfaki-sicelo ufake iinkcukacha eziyinkohliso ukuba kukho

umahluko kwizinto phakathi kweenkcukacha ezifakwe ngumfaki-sicelo kwisicelo sokuqala nakwiinkcukacha ezifakwe ngumfaki-sicelo kwisibheni nalapho iinguqulelo ezimbini zingenakukwazi ukuba zibe zezichanekileyo. Ukongeza, ukwenza ubungqina obukhohlisayo kwinkcazo engqinelweyo, besazi ukuba buyinkohliso, oko kukwaphula umthetho.

5.10 Ukufuna ulwazi oluthe vetshe, uphando nokulumana indlebe

5.10.1 UMphathiswa okanye ugunyaziwe onikwe igunya angamema abafaki-zicelo ukuba bavakalise izimvo zabo ngomlomo okanye bazise iinkcukacha ezibhaliweyo ezingezinye ukuba kukho ukungaqiniseki okubangelwa ngumba wezinto kwizicelo ezininzi. Ukuba kubanjwe iindibano zovakaliso zimvo, abameli kwezomthetho bazakuvunyelwa ukuba babhekise kuMphathiswa okanye kugunyaziwe onikwe igunya.

1.1.2 UMphathiswa okanye ugunyaziwe onikwe igunya angacela **iQela eliQinisekisa amaLungelo okuLoba ukuba liphande nawuphina umba, kuquka nokuchaneka kweenkcukacha ezifakiweyo.**

1.1.3 Abafaki-zicelo kumele basebenzisane nabaphandi ngokufaka iimpendulo kwangexesha kwizicelo zeenkucukucha okanye iingcaciso, ngokuya kwiintlanganiso nabaphandi, ngokuphendula imibuzo ngendlela eyanelisayo kwiintlanganiso ezinjalo, nalapho kuyimfuneko, ngokunika abaphandi kufikelelo lwezakhiwo, lwemikhumbi namaxwebhu. Ukungakwazi ukuba nentsebenziswano kuya kubangela isizathu esizimeleyo sokuba isicelo sikhatywe.

5.11 Inkxaso yokunyaziwe abanelungelo

5.11.1 Ugunyaziwe onikwe igunya onoxanduva lokuthatha izigqibo ngezicelo kwicandelo angaxhaswa li “Gqiza eliHlola amaLungelo okuLoba”, nabaphathi abanobuchule beprojekthi, abacebisi namagqwetha.

5.11.2 IGqiza eliHlola amaLungelo okuLoba liza kugqitywa ngugunyaziwe onikwe igunya. IGqiza eliHlola amaLungelo okuLoba lingabizwa ukuze lincedise kuhlolo lwezicelo phantsi kojongo lukagunyaziwe onikwe igunya nangokwenqobo yokuhlengahlengisa.

5.12 Ukwazisa ngezigqibo nezizathu

- 5.12.1 Emva kokuba ugunyaziwe onikwe igunya ethathe isigqibo ngokunikezela ngamalungelo okuloba nangokunikezelwa obungakanani obufunekayo okanye umsebenzi, iSebe liya kwazisa umfakisicelo ngokumbhalela malunga nesigqibo sesicelo.
- 5.12.2 Ukongeza, iSebe liya kupapasha iziphumo ngekhompyutha ze zivakalise iziphumo ngamaqonga oshishino awaziwayo namaqela anomdla.

5.13 Izibheno

- 5.13.1 Wonke ofake isicelo unelungelo lokubhena kwizigqibo zegunyabantu labathunywa. Isibheno singafakwa malunga nesigqibo sokwala ukunikezela ilungelo okanye isigqibo somthamo okanye ukuloba. Iinkcukacha malunga nesiphakamiso sesibheno ziza kufumaneka kwincwadi yokwaziswa.
- 5.13.2 Igunyabantu lezibheno liza kuqondisisa licingisisa amanqaku njengoko ayenjalo ngomhla wokuvala kwezicelo kwaye alisayi kuwathathela ngqalelo amanqaku afakelelwe emva kokuvala kwezicelo. Umzekelo, ukuba ofaka isicelo utyale imali ngokuthenga umkhumbi emva komhla wokuvala izicelo elo nqaku alisayi kuthathelwa ngqalelo xa kuchotshelwe isibheno.
- 5.13.3 Xa isigqibo sithathiwe, lowo ufake isibheno uza kwaziswa ngesigqibo segunyabantu labathunywa ngencwadi ebhaliweyo.

5.14 Ukufikelela kulwazi

- 5.14.1 Le ngxelo ilandelayo iza kufumaneka ngokuzenzekelayo ukuze ihlolwe okanye ithengwe ngomrhumo olixabiso elimiselweyo emva kokubhengezwa kwesigqibo:
- (a) Naluphi na uxwebhu lwamanqaku, lwengeniso nenkcitho okanye amanye amaxwebhu asetyenziswe ligunyabantu labathunywa, uMphathiswa okanye abancedisi babo, lokubhala phantsi ukuhlolwa kwezicelo, kwaye
 - (b) Ngesicelo salowo ufake isicelo okanye ongunya lokuba ngummeli, isicelo salowo ufake isicelo okanye amaxwebhu esibheno.
- 5.14.2 Izicelo zokufikelela kwezi ngxelo zilandelayo kuya kujongwana nazo phantsi koMthetho wokuXhaswa kokuFikelela kuLwazi 2 wama-2000:

- (a) Uxwebhu lwesicelo somnye umntu ofake isicelo;
- (b) Izihlomelo ezifakwe kunye nesicelo somnye umntu ofake isicelo;
- (c) Ngokuphathelele nokufikelela kwezi ngxelo, igosa lolwazi lweSebe liza kusebenzisa iinkqubo nemimiselo yoMthetho wokuFikelela koLuntu kuLwazi, PAIA.
- (d) Ukuncedisa kulawulo lokufikelela kulwazi oluqulethwe kwizicelo, abafaka izicelo baza kucelwa ukuba bafake amaxwebhu athile igosa lolwazi eliya kuthi likwale ukufikelela kuwo, afana nalowo aqulethe isicwangciso sokuloba salowo ufaka isicelo, isicwangciso sokuthengisa kunye neenkcazelo zezimali, kwifayile eyohlukileyo.

6. Iinqobo zokugweba ezisetyenziswayo ukuthatha isigqibo ngokunikezelwa kwamalungelo okuloba

- 6.1 Imigaqo-nkqubo kunye novimba weenkukacha eziqokelelwe emva kokufumana izicelo ziza kusetyenziswa ukuphuhlisa iinqobo zokugweba ezicokisiweyo kunye nokulinganiswa ngeenjongo zokuhlola izicelo. Ezi nqobo zokugweba ziphuhliswa ngokubhekiselele kwiinkukacha ezifunyenwe emva komhla wokuvala kwaye azikhutshwa phambi kwenkqubo yokunikezelwa.
- 6.2 ISebe lilindele inani elikhulu lezicelo zamalungelo okuloba kwaye lilindele ukuba, xa kujongwe imida yangoku yokuloba nokubamba kwabo bonke abalobi, asingabo bonke abafake isicelo abaza kuwafumana amalungelo okuloba. Abanye abafake isicelo ziza kwaliwa izicelo zabo kuba abafikeleli kwiimfuneko ezingundoqo. Abaseleyo baza kufakwa kudidi ngokweenqobo zokugweba kungathathwanga cala ukuze kuchongwe abona bafanelekileyo kwabafake izicelo ngokomgaqo-nkqubo kunye neenqobo zokugweba ngokulinganiswa. Le nkqubo yinkqubo yokhuphiswano kwaye injongo kukuchonga abafake izicelo abafanelekileyo. Nangona kunjalo, aboshishino lokuloba abaloba kancinane bangahlolwa ngendlela eyohlukileyo.
- 6.3 Kuza kusetyenziswa iindlela ezine zokuhlola izicelo. Izicelo ziza kujongiswa ngokweseti *yeenqobo zokukhetha* kwaye emva koko zifakwe kudidi ngokweseti *yeenqobo zokulinganisa nokulungelelanisa*. Ukongeza, nakwamanye amacandelo, igunyabantu labathunywa lingasebenzisa elinye okanye ngaphezulu kumanqaku *okukhetha xa kukho abalinganayo* ukuze kuthathwe isigqibo ukuba kukho abafake izicelo abaninzi nabafumene amanqaku alinganayo.

Inxalenye ye-TAC okanye i-TAE iza kunikezelwa kophumeleleyo ngamnye ngokwemiqathango "iinqobo zobungakanani bokuloba".

6.4 Iinqobo zokukhetha

6.4.1 Kuza kusetyenziswa olu hlobo lweenqobo zokukhetha.

- (a) isicelo siza kujongiswisa ukufumanisa ukuba sifakwe ngokufanelekileyo kusini na. Isicelo asifakwanga ngokufanelekileyo xa sifunyenwe emva komhla wokuvala; ukuba ofaka isicelo akawuhlawulanga umrhumo okanye uhlawule imali engaphelelanga okanye umrhumo uhlawulwe emva kwexesha; okanye sifakwe ngendlela echasene nemiyalelo, efana nokusithumela ngefeksi, okanye ngolunye uhlobo kunoxwebhu olumiselweyo. Igunyabantu labathunywa kunye noMphathiswa abanalo ilungelo lokusebenzisa ezabo iimbono ukuphumeza ukungathotyelwa kwemiqathango yeemfuneko zokufaka izicelo.
- (b) isicelo siza kujongiswisa ukufumanisa ukuba asikreqanga na kwimimiselo. Isicelo sikreqile ukuba isifungo asityikitywanga ngulowo ufaka isicelo, okanye isifungo eso asifungiswanga sangqinelwa nguMkomishinala weziFungo, okanye ukuba kufunyenwe izicelo ezingaphezulu kwesinye ezivela kumntu omnye ofake isicelo selungelo kwicandelo elifanayo, okanye lowo ufaka isicelo unikezele ngeenkukacha ezingeyonyaniso okanye amaxwebhu angeyonyaniso, okanye usilele ukubhengeza ulwazi ngempahla yakhe okanye uzame ukuphemelela uMphathiswa okanye abathunywa ngendlela engeyiyo leyo kubonelelwe ngayo kuMgaqo-nkqubo Jikelele ngexesha lokufaka isicelo.
- (c) Isicelo siza kujongiswisa ukufumanisa ukuba lowo ufaka isicelo wakhe wazibandakanya kwinkqubo yeCandelo lama-28 ngokwemiqathango yeMLRA ebe neziphumo zokuchithwa okanye zokurhoxiswa okanye zokuxhonywa okanye zokuguqulwa kwemeko zelungelo lowo ufake isicelo alinikezelweyo.
- (d) kwiQela A, abaphicothi-zincwadi abazimeleyo baza kufuneka ukuqinisekisa iimpendulo ezithile zalowo ufake isicelo nokulungiselela kunye nokutyikitya ingxelo ngokuphathelele kulo mba. Ukuba lowo ufake isicelo uthembele kulwazi olubonelelwa zinkampani eziphethayo okanye amanye amalungu eqela okanye kumaqabane kwezoshishino, abameli abagunyazisiweyo bala mashishini kufuneka batyikitye kwaye bangqine kwisifungo. Isicelo siyakuba sikreqile ukuba ingxelo yabaphicothi-zincwadi abazimeleyo ayinikezelwanga kwaye ayityikitywanga (ukuba kuyimfuneko)

okanye ukuba isifungo sommeli ogunyazisiweyo wenkampani ephetheyo, ilungu leqela leenkampani okanye iqabane kushishino asityikitywanga kwaye asingqinwanga. Igunyabantu elithunyiweyo kunye noMphathiswa abanalo ilungelo lokusebenzisa iibono zabo ukuphumeza ukungathotyelwa kwemiqathango neemfuneko eziphathelele kwisicelo esikreqileyo.

(e) Isicelo siza kujongiswa ukufumanisa ukuba lowo ufake isicelo uyabuphumeza ubuncinane beemfuneko ezingundoqo ukuze athathe inxaxheba kushishino lwelo candelo. Igunyabantu elithunyiweyo kunye noMphathiswa abanalo ilungelo lokusebenzisa iibono zabo ukuphumeza ukungathotyelwa kwemfuneko engundoqo ukuze lowo ufake isicelo athathe inxaxheba kwelo candelo loshishino. Iimfuneko ezingundoqo ziyohluka ukusuka kwicandelo ukuya kwelinye.

6.5 Iinqobo zokulinganisa

6.5.1 Izicelo ezifakwe ngokufanelekileyo, ezingakreqanga kwaye eziziphumezayo iimfuneko ezingundoqo ziya kunikwa amanqaku ngokweseti yeenqobo zokulingana (iinqobo zokulingana).

6.5.2 Iinqobo zokulingana ziya kulinganiswa ngeenjongo zokufaka kudidi abafake isicelo. Ezinye zezi nqobo, ezifana nenguqu, ziza kusetyenziswa kuwo onke amacandelo, lo gama ezinye ziza kujolisa kwicandelo elithile. Izicelo zabo sele benelungelo azisayi kunikwa amanqaku ngokweenqobo ezifanayo kunye nokulinganiswa njengabaqalayo kwaye baya kufakwa kudidi olohlukileyo.

6.5.3 Umhla wokugqibela wokufaka izicelo uza kumiselwa ngokohlukileyo kwabo sele benamalungelo okuloba nabo baqalayo. Bonke abafake izicelo abanamanqaku alinganayo okanye angaphezulu baza kunikezelwa amalungelo.

6.6 Iinqobo zokohlula abalinganayo ngamanqaku

6.6.1 Ukuba kukho abafake izicelo abaninzi nabafumene amanqaku alinganayo, igunyabantu labathunywa lingasebenzisa iinqobo zokuhlula ukulingana, ukuze kukhethwe phakathi kwabafake isicelo abanamanqaku alinganayo.

6.6.2 limeko zokohlula amanqaku alinganayo zinganeenqobo zokunganikwa amanqaku okanye zokunika amanqaku kodwa kulinganiswe ngendlela eyohlukileyo.

6.7 linqobo ezisetyenziswayo zokunikezela ubungakanani bomthamo okanye ukuloba ubuncwane baselwandle

6.7.1 Kukho izigqibo ezimbini ezohlukileyo.

6.7.2 Emva kokuba izigqibo ezichonga abaphumeleleyo kwabafake izicelo zithathiwe, igunyabantu labathunywa liza kuthatha izigqibo ngokunikezela ngobungakanani okanye ilungelo lokuloba ubuncwane baselwandle kofake isicelo ngamnye ngokuhambelana nemiqathango yomgaqo-nkqubo.

ISAHLULO C: UMGAQO-NKQUBO OFANAYO NGOKUBHEKISELELE EKUNIKEZELENI NGAMALUNGELO OKULOBA

7.1 Ubude bexesha lelungelo

7.1.1 Amalungelo okuloba aza kunikezelwa kuwo onke amacandelo abalobi ixesha elifikelela kwiminyaka eli-15.

7.1.2 Ubude bexesha lelungelo lokuloba liza kumiselwa, phakathi kwezinye izinto, ngumgangatho wenguqu kwelo shishini lokuloba, ulwazi onalo ngoku ngemo yebhayoloji yolo hlobo lwentlanzi ujolise ukululoba; ubukho benkunzi kwishishini kunye nemfuneko yokukhuthazwa kotyalo-malikunye nokukhula kwezoqoqosho, kunye nendlela abenza ngayo abo bathatha inxaxheba kushishino lwezokuloba.

7.2 Uhlobo lwalowo unelungelo lokuloba

7.2.1 ICandelo le-18 loMthetho ubonelela ngokuba ibe ngabemi baseMzantsi Afrika kuphela abanokufumana amalungelo okuloba.

7.2.2 Aba bemi baseMzantsi Afrika baza kucingelwa:

- (a) inkampani;
- (b) inkampani encinane enamalungu angaphantsi kwama-20;
- (c) inkampani ekuthenjelwe kuyo;
- (d) amafelandawonye asekwengokomgaqo-nkqubo wamashishini asaKhulayo abalobi; kunye
- (e) umbutho wesekuhlaleni wempahla osekwe ngokomgaqo-nkqubo wamashishini asaKhulayo abalobi.

7.3 Ukulingana ngokweNgqesho

7.3.1 Abafake izicelo ekufuneka ngokomthetho ukuba bathobele uMthetho wokuLingana ngokweNgqesho wama-55 we-1998 kufuneka babonise ukuba bayawuthobela.

7.3.2 Inani labantu abantsundu nabasetyhini abaqeshwe ngofake isicelo singaba yinqobo yokugweba elungelelanisayo neyokulinganisa. Amanqaku angaphezulu anganikezelwa kwabantsundu nabasetyhini abaqeshwe kwizikhundla eziphezulu nabafumana imivuzo ephezulu ehlawulwa

ngulowo ufake isicelo okanye kwizikhundla zobungcali nezinezakhono, kunakwizikhundla ezisezantsi nezingenazakhono. Umzekelo, abafake izicelo kungafuneka bachaze iipesenti zabantsundu nabasetyhini kwezona zikhundla ziphezulu ezikwi-10% eziphezulu, phakathi kwe-10% naqma-30% aphezulu, phakathi kwama-30% nama-50%, nangaphantsi kwama-50% aphezulu, okanye bachaze inani labantsundu nabasetyhini abaqeshwe kwizikhundla zobungcali nezinye ezinezakhono.

- 7.3.3 Amanqaku angaphezulu aza kunikezelwa ngokuqeshwa kwabantsundu nabasetyhini abafumana imivuzo ephezulu kwaye amanqaku angaphezulu aza kunikezelwa ngokuqesha abantsundu nabasetyhini kwizikhundla ezinezakhono kunezo zingenazakhono. Ngenxa yobume bobuhlanga kwiindawo zokusebenza eMzantsi Afrika, ukohluka kwemivuzo kungathathelwa ingqalelo.

7.4 Uphuhliso lwezakhono

- 7.4.1 Abafake izicelo kuza kufuneka babonise ukuba bayawuthobela uMthetho woPhuhliso lwezaKhono 97 we-1998 kunye noMthetho wemiRhumo yoPhuhliso lwezaKhono 9 we-1999.

- 7.4.2 Ukuba ofake isicelo uthatha inxaxheba kwiinkqubo zokuqeqesha abasebenzi abatsha okanye uchitha ngaphezulu ekuqeqesheni ngolwalamano abantsundu, oko kungathathelwa ingqalelo.

7.5 Ukuthengwa kweenkonzo kwabo babengawanikwanga amathuba

- 7.5.1 Ukuthengwa kweenkonzo kwabo babengawanikwanga amathuba (ukuthengwa kweenkonzo kwabantsundu) kungabalelwa njengenqaku elithathelwa ingqalelo.

7.6 UTyalomali lwamaShishini kwezeNtlalo

- 7.6.1 Ipesenti yenzuzo echithwe kutyalomali lweshishini kwezentlalo, nalo lungathathelwa ingqalelo.
- 7.6.2 Izipho ezirhafelwayo ziza kuthathwa njengotyalomali lweshishini kwezentlalo kodwa nezinye izipho zingajongelwa eso sizathu.

7.7 Abafaka isicelo abatsha

- 7.7.1 Ngokubanzi, kukho isithutyana esincinane kakhulu sokwamkela abafaka izicelo abatsha kuba amashishini okuloba amaninzi sele ebhalisiwe. Kodwa abafaka izicelo bangamkelwa ngokuthi bathathe indawo yabanamalungelo abangaphumelelanga. Oku kuza kwenziwa ukuba abanamalungelo basilele kwinguqu yokwenene enentsingiselo, okanye abanamalungelo basilele

ukwenza okanye ukutyala imali ngokufanelekileyo, okanye ubungakanani bobuncwane kwishishini elithile bungaphantsi kunobo bufunekayo.

7.7.2 Njengomthetho jikelele, iSebe alisayi kuvumela abanelungelo abathengise okanye ngayo nayiphi na indlela bazichaselisa kumalungelo okuloba kushishino ukuba baphinde bangene kolu shishino njengabafaka isicelo abatsha. Oku kusasebenza nakubanini-zabelo okanye amalungu enkampani ezincinane athengise isabelo esikhulu selungelo lokuloba.

7.8 Paper quotas

7.8.1 Kwinkqubo yokunikezelwa kwamalungelo, igunyabantu labathunywa liza kubakhetha abafake isicelo ekucingelwa ukuba bangumngcipheko nabaphethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba ukuba lowo ufaka isicelo ukhangeleka engenayo injongo yokwabelana ngomngcipheko wokuthatha inxaxheba ngokupheleleyo kweli candela, ingakumbi ukuba kukho ubungozi bokuba ofake isicelo akasifakanga ngenjongo zokungena kolu shishino kodwa ufake isicelo ukuze afumane inzuzo ngokwasemalini ngaphandle kokubandakanyeka ngqo kwimisebenzi ehambelana nokufumana inzuzo ngalo naliphi na ilungelo elinikezelweyo. Ekufumaniseni ukuba ingaba ofake isicelo omtsha angaba ngumngcipheko nophethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba, impahla yofake isicelo, izinto ezizezakhe kunye nokufikelela kwinkunzi nesicwangciso sezimali neseshishini kufuneke ziqondwe.

7.8.2 Igunyabantu labathunywa kufuneka lizame kangangoko ukuthintela abaphethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba ukuba bungene kushishino lokuloba kwaye lisuse nabo banjalo abasele benelungelo. Ukuba ngomnye wabaphethe iphepha lobungakanani bobuncwane baselwandle onokubuloba kujongela phantsi okanye buguqula iinjongo zenkqubo yokunikezelwa kwamalungelo.

7.8.3 Igunyabantu labathunywa liza kubakhetha abasele benelungelo nabaphethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba. Ngokwale njongo, igunyabantu labathunywa liza kubathatha njengabaphethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba abanelungelo lokuloba abanengxelo zokusebenza ezingekhoyo kuhlanganiswa nabo bangatyalanga mali okanye bazibandakanye.

- 7.8.4 Igunyabantu labathunywa liza kubakhetha njengabafake izicelo bengumngcipheko wokuba ngabaphethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba abacingelwa ukuba bazimisa phambi kwabona banini abangabona baxhamlayo. Ukuzimisa phambi kwabona banini baxhamlayo kwenzeka xa, ukuze kuguqulwe injongo yomgaqo-nkqubo, isicelo sifakwa ngomnye umntu okanye inkamani. Umzekelo sisicelo esefakwa yinkampani eyenze inguqu ngenjongo zokuba inzuzo ziza kuya kwinkampani engenzanga zinguqu okanye abafake izicelo abangekho ntsundu.
- 7.8.5 ISebe liza kuwahlutha amalungelo abo sele benawo ukuba kufumaniseke ukuba ngabaphethe iphepha lobungakanani bobuncwane baselwandle abanokubuloba.
- 7.8.6 Ngokomthetho, iSebe liya kuwahlutha amalungelo okuloba kwabo sele benawo ukuba bayasilela ukuwasebenzisa amalungelo abo.

7.9 7.9 Ukusebenza kwezimali

- 7.9.1 Ukusebenza kwezimali zomfaki-sicelo kunokuhlolwa ngokwemimiselo yoludwe lwemilinganiselo yezezimali ehambelana nemigomo exhaswa yinkcazelo yezezimali ephicothiweyo.
- 7.9.2 Inkcazelo yezezimali isekwanokusetyenziselwa ukuqinisekisa ukuba ngobani abona baxhamli beso **sabelo** (ngokomgomo u-“follow-the-buck”) nokuqinisekisa ukuba ingaba ngoyena **mnikazi** ufanelekileyo othe watyala imali kolu shishino.

7.10 Intlawulo yemirhumo

- 7.10.1 Abafaki-zicelo bayakulindeleka ukuba baveze iziqinisekiso zokuba abakho semva kwiintlawulo zemirhumo yeentlanzi abazifumeneyo.

7.11 Ukuthobela

- 7.11.1 Abafaki-zicelo abagwetywe kulwaphulo-mthetho olunobuzaza e-MLRA, iMimiselo, imimiselo yempepha-mvume nolunye ulwaphulo-mthetho olunxulumene nezokuloba, basenokuthintelwa.
- 7.11.2 Ulwaphulo-mthetho oluncinci, kuquka ukuhlawulwa kwezohlwayo zokuvuma ityala, asenokuthathelwa ingqalelo njengenqobo yokulinganisa.
- 7.11.3 Imikhumbi ebhalwe kuluhlu **olungeluhle** lalonaluphi na **iQumrhu lokuLawula ezokuLoba loMmandla** (“RFMO”) ayiyi kuvunyelwa ukuba ilobe. Abafaki-zicelo abangabanikazi bemikhumbi (ngokupheleleyo okanye ngokuyinxalenye) okanye **abachonge** imikhumbi ebhalwe kuluhlu olungeluhle ayiyikwamkelwa.

7.12 Umsebenzi wokuloba

- 7.12.1 Umsebenzi wokuloba wabanikazi abanelungelo ngoku sithethayo usenokuhlolwa ukuqinisekisa ukuba ingaba umfaki-sicelo onelungelo ngokwangoku ulobe kakuhle na isabelo sakho.
- 7.12.2 Abafaki-zicelo abangakhange balobe zintlanzi tu kwaphela ngexesha lokuloba okanye abangazilandanga iimpepha-mvume kwade kwaphela ixesha lokuloba basenokungamkelwa.

- 1.1.3 Ukuloba nganeno nokuloba ngokugqithisileyo kusenokusetyenziswa njengenqobo yokulinganisa.

7.13 Utyalo-mali

- 7.13.1 Utyalo-mali kumkhumbi ochongelwe ukuloba kubuncwane obuphantsi kwamanzi nezinye ii-asethi ezingasukiyo kuza kuqatshelwa okweli xesha utyalo-mali lubonakalisa iinjongo ezintle zokwabelana kwimingcipheko ehambelana nokuthatha inxaxheba kweli candelo.
- 7.13.2 Ubunini-zabelo kwimikhumbi efumaneke ngelona xabiso liphantsi okanye umfaki-sicelo awufumene ngaphandle kwentlawulo, abuyikuthathwa njengotyalo-mali.

7.13.3 Izinga lotyalo-mali luyakuhlolwa ngokumalunga nelungelo lobungakanani obufanelekileyo bomfakisicelo ngenxa yelungelo lakhe lokuloba.

7.14 Ukongeza ixabiso

7.14.1 *Ukongeza ixabiso* kuthetha loo misetyenzana ithi yongeze ixabiso lezentengo kwintlanzi, kungakhathaliseki nokuba elo xabiso lifumaneka kurhwebo lwaseMzantsi Afrika okanye kolwamazwe-ngamazwe.

7.14.2 Ukongeza ixabiso kusenokuba nembuyekezo kuba, kuvuselela ukudaleka kwamathuba emisebenzi nobutyebi.

7.15 Uphuhliso lezoshishino

7.15.1 Uphuhliso lwezoshishino luquka amanyathelo okwandisa ubunikazi babantu abantsundu, ulawulo nezakhono kumashishini amakhoyo nakwamatsha, kuquka neenkqubo zotyalo-mali nokufikelela kwezezimali.

7.15.2 La manyanthelo asenokuba nembuyekezo ukuba ngaba awadali amalinge okuphikisana nemithetho yokukhusela abasebenzi equlathwe kwimithetho yezabasebenzi, ezempilo neyezokhuseleko.

7.16 Ukudalwa kwamathuba emisebenzi

7.16.1 Eyona njongo ibalulekileyo yokunikezela ngamalungelo okuloba kukudala imeko yookusingqongileyo elungele ukudala amathuba emisebenzi, ngokukodwa, ukudalwa kwamathuba emisebenzi yeMisebenzi esisigxina eyongezelelweyo nemisebenzi esemgangathweni ongcono kushishino lezokuloba.

7.16.2 Ukudalwa kwamathuba emisebenzi ngabanini bamalungelo okuloba ngokwetoni **eyabelweyo** nokwanda kwamathuba emisebenzi ngenxa yokunikezelwa kwamalungelo okuloba, kuza kuthathwa njengenyanthelo elihle.

7.16.3 Ukudalwa kwamathuba emisebenzi esisigxina kuyakhetheka kunemisebenzi yexesha lokuloba isizini ke ukutsho, kanti imisebenzi yesizini iyakhetheka kunemisebenzi yekontrakti.

7.17 Uphuhliso lwezoqoqosho lwasekhaya nengqwalasela yobume bendalo yomhlaba

7.17.1 Oogunyaziwe abanikwe igunya banokubuyekeza ukufumaneka kweendawo zokuloba kumazibuko okuloba angaphandle kwimimandla yoomasipala abambaxa ukukhuthaza uphuhliso lwezoqoqosho lwasekhaya

7.17.2 Ukuqinisekisa ukuba lonke uluntu olungabalobi luyabelana kubuncwane bendalo ephilayo eselwandle, oogunyaziwe abanikwe igunya bangasebenzisa iziza zokuloba njengenqobo yokunika amanqaku okanye ukwahlula xa kukho ukulingana kwamanqaku.

7.17.3 Abafaki-zicelo bayakhuthazwa ukuba balobe okanye basebenze ngentlanzi emazibukweni nakuluntu lwezokuloba oluhlelekileyo.

7.18 Imikhumbi nomsebenzi wokuloba

7.18.1 Umfaki-sicelo kunokulindeleka ukuba aveze isiqinisekiso esimnika imvume yokungena kumkhumbi olungele ukuloba oloholo luthile lweentlanzi okanye ezo ntlobo zithile zeentlanzi. Yonke imikhumbi kuya kufuneka ibhaliswe kwiSebe khona ukuze ibe nokuchongwa njengemikhumbi yokuloba.

7.18.2 Umkhumbi ofanelekileyo uza kucaciswa kumgaqo-nkqubo wezokuloba ofanelekileyo, kodwa eyona nqobo yokulunga ifanelekileyo iya kuba:

(a) Yibhanile/iflegi yoMzantsi Afrika (ngaphandle kokuba kukho isibonelelo esisodwa esenziweyo kumgaqo-nkqubo wezokuLoba);

(b) Ngaphandle kokuba kukho uxolelo, ufakelwe inkqubo yokuhlola umkhumbi ("VMS") esemthethweni;

(c) Ubhaliswe phantsi koMbutho woKhuseleko lwaseLwandle woMzantsi Afrika njengokulungeleyo ukuloba; kwaye

(d) Ube awubhaliswanga kulo naluphi na uluhlu lokungekule lwe-RFMO.

- 7.18.3 ISebe liza kulindela ukuba bonke abafaki-zicelo zamalungelo okuloba ukuba basebenzise imikhumbi echongelwe ukuloba. Ukutshintsha imikhumbi kuyakuvunyelwa kuphela kwiimeko ezifanelekileyo.
- 7.18.4 Elona phawu lingundoqo kulawulo nolondoloza lobuncwane baselwandle kukuqingqwa kwezicelo zomsebenzi wokuloba ukuqinisekisa ukusetyenziswa kobo buncwane ngeyona ndlela ifanelekileyo.
- 7.18.5 Ngokwesiqhelo iSebe liyakwala ukwandisa okongezelelweyo kumalinge emikhumbi. Ukulayishwa kwemikhumbi ngokugqithisileyo kuthathwa njengomnye wemiba engundoqo ebeka ubonelelo lweentlanzi eMzantsi Afrika lube semngciphekweni. Oko kukwathwalisa iSebe umthwalo owongezelelekileyo, ngokongamela nokunyanzelisa ukuthotyelwa kwemithetho nokulawula ukusetyenziswa ngokugqithisileyo kobo buncwane.
- 7.18.6 Ngokuxhomekeke kwimigaqo-nkqubo yezokuloba ebaluliweyo, ukusetyenziswa kwemikhumbi ngokudibeneyo nangokudibana kwamacandelo kuyakhuthazwa, kuba oku kuza kukhokelela ekusetyenzisweni kwemikhumbi kakuhle nangobuchule kwelo xesha lokuloba. Kwelinye icala, kuyaqondakala ukuba imikhumbi emidala kufanele itshintshwe, ngenxa yezizathu zokhuseleko phakathi kokunye. Ukphuculwa kwemikhumbi ngokuqinisekileyo kuyakukhokelela ekwandeni komthamo onokuthwalwa. Apho kukho khona imfuneko, kuza kuqaliswa ukuqingqwa komsebenzi ukuqingqa umsebenzi lowo.

7.19 Ukhuseleko lwabasebenzi nabasebenzi basemkhumbini

- 7.19.1 Abafaki-zicelo kuza kulindeleka ukuba babonakalise ukuba bayithobele imimiselo yelawulo yomthetho i-South African Marine Safety Authority Act 5 wowe-1998 nemimiselo ebhengezwe ngokomthetho i-Merchant Shipping Act, 57 wowe-1951.
- 1.1.2 Abafaki-zicelo kuyakulindeleka ukuba babonise ukuba bayahambisana nomthetho weMbuyekezo yokweNzakala eMsebenzini neziGulo, uMthetho 130 we-1993 (i-Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993). Abafaki-zicelo kwakhona bayakhunjuzwa ngomyalelo weli Sebe wokuba iinkampani kulindeleke ukuba zamkele umgaqo-nkqubo weNtsholongwane

kaGawulayo noGawulayo (i-HIV/AIDS) kwaye kusenokulindeleka ukuba oko kuqhaganyisheliswa kwizicelo ezifakwayo.

IS AHLULO D: INGQWALASELA YOMGAQO-NKQUBO UKWENZELA UKUNIKEZELWA KOBUNGAKANANI OBUFUNEKAYO OKANYE UMSEBENZI

8. Ingqwalasela yomgaqo-nkqubo

- 1.1 Ngokwesiqhelo, isigqibo sokwabela ubungakanani obufunekayo okanye umsebenzi sithathwa ngokwahlukeneyo kwisigqibo sokuchonga abafaki-zicelo abaphumeleleyo, nangona zithungelana.

IS AHLULO E: UHLAZIYO LOMGAQO-NKQUBO

9. Uhlaziyo lomgaqo-nkqubo

- 9.1 ISebe lizibophelel kuhlaziyo oluqhubekayo lokuhlola ukusebenza ngokuvakalayo koMgaqo-nkqubo weSiqhelo nemigaqo-nkqubo yezokuLoba eBaluliweyo ekuhlangabezani iimfuno zezentlalo noqoqosho neemfuno zezoqoqosho zoshishino lezokuloba kunye noluntu lezokuloba oluchaphazelekayo nokuzinza kwendalo esingqongileyo yobu buncwane.
- 9.2 Uphando nokongamela okuqhubekayo okwenziwa liSebe kunye nabadlali-ndima ababalulekileyo kuyakudlala indima ebalulekileyo ekuchongeni amakhwiniba neziphene kumgaqo-nkqubo nasekuphunyezweni kwawo.
- 1.3 ISebe liza kumisela inkqubo yokongamela nokuhlola ukuqinisekisa ukuba iingcebiso eziluncedo, ezithembakeleyo ezimalunga nokusebenza ngokuvakalayo kwemigaqo-nkqubo fumaneka ngexesha kwiSebe nabadlali-ndima ababalulekileyo abafanelekileyo.

10. INKCAZELO YAMAGAMA

- 10.1 “Ixesha lokufaka isicelo” lithetha ngexesha eliqala ngokushicilelwa kwezimemo zokufaka izicelo zelungelo lokushishina kweli candela ukuya kutsho ngomhla apho ugunyaziwe wezibheno athatha khona izigqibo ngezibheno ekugqibeleni kweli candelo.
- 10.2 “Umntu/Abantu abaMnyama” [ligama eliqhelekileyo] lithetha abaNtsundu, abeBala, nama-Ndiya abangabemi beRhiphabliki yoMzantsi Afrika ngokuzalwa okanye ngokomnombo okanye othe wangummi woMzantsi Afrika ngokunikwa amalungelo obumi-
- (a) phambi kumhla ama-27 ku-Apreli we-1994 okanye
 - (b) ngomhla okanye emva kumhla wama-27 ku-Apreli 1994 kwaye abe wayenelungelo lokuba afumane ilungelo lobumi ngokulinikwa phambi kwalo mhla kodwa wathintelwa ukukwenza oko ngenxa yemigaqo-nkqubo yoCalucalulo.
- 10.3 “IKhowudi yokuSebenza kaKuhle” ithetha ngeeKhowudi zokuSebenza kaKuhle zokuXhotyiswa kwabaNtsundu kwezoQoqosho (ze-BEE) ezishicilelwe nguMphathiswa wezoShishino noRhwebo ngowa-2004 ngokwemimiselo yoMthetho wezokuXhotyiswa kwabaNtsundu kwezoQoqosho ngokuBanzi, uMthetho 53 wama-2003.
- 10.4 “ISebe” lithetha iSebe lezoLimo, amaHlathi nezokuLoba.
- 10.5 “UMnikazi weLungelo” lithetha umnikazi welungelo onikwe ilungelo ukusukela ngowama-2005 ukuya kowama-2006 kwicandelo elithile, okanye ube ngumnikazi welungelo kweli candela ngendlela yokudluliselwa ilungelo lokuloba eyamkelekileyo.
- 10.6 “UMphathiswa” uthetha uMphathiswa wezoLimo, amaHlathi nezokuLoba.
- 1.7 “UMngeni oMtsha” uthetha umfaki-sicelo ongenguye umnikazi welungelo kwicandelo elithile afake isicelo kulo.