

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

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**POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS
IN THE LARGE PELAGIC LONGLINE FISHERY: 2015**

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(In case of any inconsistency, the English text prevails)

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1. Introduction

The Department of Agriculture, Forestry and Fisheries (“the Department”) is responsible for administering the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”), regulations promulgated thereunder and policies issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department.

This policy on the allocation and management of fishing rights in the Large Pelagic Longline fishery (“the Large Pelagic fishery”) shall be referred to as the “**Large Pelagic Policy: 2015**”.

This policy must be read in conjunction with the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (“the MLRA”) and regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

Only persons issued with permits in terms of the MLRA may harvest, transport catch from a landing site to the permitted Fish Processing Establishment (FPE) and export large pelagic species catch and products thereof.

2. Profile of the fishery

2.1 Background

Pelagic longline fishing by South African vessels fishery started in the 1960s through explorations into viability by the Japanese and Taiwanese fleets fishing in South African waters under bilateral licensing agreements. The main target was southern bluefin tuna and albacore, yet the fishery ceased to exist after the mid 1960’s as a result of a poor market for low quality southern bluefin and albacore. However, foreign vessels, mainly from Japan and Taiwanese, continued to fish in South African waters in the 1970s and re-negotiated the issuing of bi-lateral agreements in the 1990s. Local interest in pelagic longline fishing re-emerged in 1995 when a joint-venture with a Japanese vessel

confirmed that tuna and swordfish could be profitably exploited within South Africa's waters.

The Minister of Environmental Affairs and Tourism ("the DEAT") granted 30 experimental longline permits in 1997 to target tuna, although swordfish made up two-thirds of the catch. The DEAT decided not to renew the bi-lateral agreements with Japanese and Taiwanese longline vessels to catch tuna and swordfish in South African waters and terminated these agreements at the end of January 2003. However, foreign participation in the fishery continued in the form of joint ventures with Japan from 1997 until the end of the long term commercial fishing rights in 2015.

2.1 **Biology of the resource**

Large pelagic resources include all common tuna species bigeye (*Thunnus obesus*), yellowfin (*Thunnus albacares*), albacore (*Thunnus alalunga*), skipjack (*Katsuwonus pelamis*), and southern bluefin (*Thunnus maccoyii*), swordfish (*Xiphias gladius*), pelagic sharks (shortfin mako (*Isurus oxyrinchus*), blue sharks (*Prionace glauca*)); and secondary species such as oilfish (*Ruvettus pretiosus*), escolar (*Lepidocybium flavobrunneum*) and other billfish species (marlin species (*Kajikia albidus*, *Kajikia audax*, *Makaira nigricans*, *Makaira mazara*, *Istiompax indica*) sailfish (*Istiophorus platypterus*, *Istiophorus albicans*) and spearfish (*Tetrapturus angustirostris*, *Tetrapturus pfluegeri*)).

South Africa's geographical position has made it possible for the fishery to target tropical (yellowfin), temperate (albacore and southern bluefin) and intermediate (bigeye) tunas. Southern Bluefin (120-130cm FL size-at-maturity), bigeye tuna (100-110 cm FL size-at-maturity) and yellowfin tuna (90-110 cm FL size-at-maturity) are on the larger size scale followed by the smaller albacore tuna (75-85 cm FL size-at-maturity). These tunas are pelagic oceanic migrants found in all oceans except the Arctic, and the southern bluefin tuna is confined to the southern regions of the Indian, Atlantic and Pacific Oceans. Yellowfin tuna is caught more often in the tropical Indian Ocean whereas bigeye tuna is caught around the entire South African coastline. Southern bluefin tuna is abundant at the southern border of South Africa's Exclusive Economic Zone. Albacore is mainly caught in temperate Atlantic Ocean waters.

The billfishes are also widely distributed throughout all major oceans. Swordfish (140-160 cm LJFL size-at-maturity) is cosmopolitan and all other *Istiophoridae* occur in the Atlantic, Indian or Pacific Oceans. Although distributed around South Africa, Swordfish is mainly caught in the Mozambique channel and in the Atlantic Ocean north of Cape Columbine.

Scombrids and billfishes are distributed in epipelagic (skipjack, yellowfin, swordfish, billfish, juvenile tunas) and mesopelagic (albacore, bigeye, southern bluefin, yellowfin, swordfish) depth ranges. Albacore, yellowfin tuna and swordfish have been known to dive to preferred depths of between 400 – 600m, whilst bigeye tuna and southern bluefin tuna dive to depths of 1000m and 2700m, respectively.

Environmental factors that affect the distribution of tunas include sea surface temperature, vertical thermal structure, dissolved oxygen, salinity, oceanic fronts and food availability. The temperate and intermediate tunas and billfishes make seasonal migrations over long distances between temperate and subtropical feeding grounds (e.g. off South Africa) and tropical spawning grounds. Tunas and billfish are designed to swim continuously over long distances (with red muscle) and at bursts of speed (with white muscle) to fulfil oxygen and feeding demands. Tunas and billfishes are opportunistic feeders preying on a variety of fish, crustaceans and cephalopods.

The fishing areas around South Africa straddle two recognised stocks, the Indian Ocean and the South Atlantic Ocean, for yellowfin tuna, bigeye tuna, albacore and swordfish.

2.2 Current status of the fishery

Tuna and tuna-like resources are targeted by the Large Pelagic fishery, the tuna pole-line fishery and the recreational fishery. Other fisheries, which catch large pelagic species as by-catch, are the traditional linefish fishery and the mid-water trawl fishery. Large pelagic fishes are widely distributed and highly migratory with the same stock being fished by many different fishing nations. Consequently, Regional Fisheries Management Organisations (“RFMOs”) are primarily responsible for the management of these resources. Countries that co-operate or which are members of an RFMO are required to adhere to all the conservation and management measures adopted by the respective RFMO.

South Africa is a member of the International Commission for the Conservation of Atlantic Tuna (“ICCAT”), the Commission for the Conservation of Southern Bluefin Tuna (“CCSBT”) and the Indian Ocean Tuna Commission (“IOTC”). The fishery is thus dependent upon country allocations from the relevant RFMOs.

3. The 2005/2006 long-term fishing rights allocation process

The commercial fishing rights in the South African Large Pelagic fishery were allocated in 2005. Initially, 18 swordfish-directed fishing rights (18 vessels) and 26 tuna-directed fishing

rights (26 vessels) were allocated during the 2005/2006 long-term rights allocation management process.

The pelagic shark longline fishery was terminated on the 31st of December 2005 and nine exemptions were granted for pelagic shark longline fishing. During the 2011 allocation which was used to include the pelagic shark vessels within the Large Pelagic fishery, the Large Pelagic fishery sector was increased to 21 swordfish-directed rights (21 vessels) and 29 tuna-directed rights (29 vessels). The Large Pelagic fishing rights expired on the 28th of February 2015.

4. Objectives

4.1 The objectives of allocating fishing rights in the Large Pelagic fishery are to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation in the fishery (through increased participation, sharing value-creation opportunities and profits, and linkage
- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) to promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of Large Pelagic species as a major source of their gross annual income above applicants deriving income from sources outside the Large Pelagic fishery;
- (f) achieve maximum growth and full active subscription of the Large Pelagic fishery; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. In terms of section 79 of the MLRA the Minister has delegated the power to grant rights in each fishery to a Delegated Authority in the Department. Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

The rights granted will be based on applicable balancing criteria, and will be reflected as a proportion of the local commercial Total Allowable Catch (TAC) and/or Total Allowable Effort (TAE) or a combination thereof that are available at the time that the rights allocation process is conducted. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter they will automatically terminate and revert back to the State to be reallocated. It should be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restrictions in order to address a state of emergency.

5.1 **Form of right holder**

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility only the following South African persons will be considered for a right in the Large Pelagic fishery:
 - (i) close corporations (legal entity); and
 - (ii) companies (legal entity).

5.2 **Duration of right**

Having regard to the right allocation process, and the need to encourage investment, fishing rights in the Large Pelagic Fishery will be granted for the maximum period of 15 years.

5.3 **Total Allowable Catch and Total Applied Effort Allocation**

In terms of section 14 of the MLRA the Minister is empowered to determine a TAC, TAE, or combination thereof to apply in each fishery. This fishery is regulated by the determination of a TAE. The TAE is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery. The Delegated Authority will only allocate a local commercial portion of the determined TAE to commercial right holders based on the proportion granted to each successful applicant at the time of commercial fishing rights allocation process. The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAE decrease or increase respectively. In terms of section 14(4) of the MLRA, if the allowable commercial catch in respect of which commercial fishing rights exist increases, the mass of the increase shall be available for allocation by the Minister.

5.4 **Transfer of Rights Allocated in terms of this Policy**

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the fishery in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

A notification of transfer of shares or members' interest must be served on the Department within 30 days of such sale or transfer or any time-period set in applicable permit conditions in all cases in which shares or a member's interest in a right holder are sold or transferred. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated, with particular regard to any decrease in black ownership of such entity

Failure to pay the required fees for the grant of a right, or to apply for any permits, or to declare any catches during the first two (2) years, shall result in a cancellation of the right by the Minister.

6. Multi-sector involvement

Applicants for the allocation of rights in the Large Pelagic fishery will not be precluded from applying for or holding commercial fishing rights in other local commercial fishing sectors. This shall mean any person can apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any fishery sector. In this case, the applicant shall mean an individual, a shareholder or Directors in a company or a member in a close corporation or a close cooperatives applying for a right in any fishery sector.

Individuals who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest or a stake in a an entity or cooperative which is applying for, or already holds rights in another fishery. Individuals, who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery; or be a participant in a cooperative operating in another fishery.

The Delegated Authority reserves the right to grant a right to the applicant in any sector and may, however, prefer applicants who rely on the Large Pelagic fishery for a major source of their gross annual income.

7. Evaluation criteria

Applications for the allocation of rights in the fishery Large Pelagic will be screened in terms of a set of “exclusionary criteria”. All applicants will thereafter be separately scored in terms of a set of weighted “comparative balancing criteria”. A cut-off will then be determined in order to select the successful applicants and a portion of the TAE will be apportioned to successful applicants.

7.1 Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

(a) Compliance

An applicant will be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine). An applicant will also be excluded if it, a controlling shareholder, a member with a controlling interest, or a director, has had any fishing right cancelled or revoked in terms of the MLRA. For these purposes an individual will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked. Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) Paper quotas

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) **Non-utilisation**

Applicants that held a Large Pelagic right within the period 2006 to 2014 and did not harvest any Large Pelagic species during the entire duration of that Right shall be excluded.

7.2 **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

(a) **Transformation**

When assessing and scoring applications, and when allocating portions of the TAC, TAE or combinations thereof to successful applicants, the Delegated Authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, or allocating portions of the TAC, the Delegated Authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry, of Historically Disadvantaged Individuals (HDIs) and the codes of good practice under the Broad Based Economic Empowerment Amended Act

Applicants, depending on the form of the applicant will be assessed and scored on the following transformation criteria:

- (i) The percentage of people from designated groups and HDIs represent at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials (as measured in the 2005 LTRAMP) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the LTRAMP.
- (iii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iv) Compliance with the Employment Equity Act 55 of 1998 and the representativity of designated groups and HDIs at the various levels of employment below senior official and management level;
- (v) Affirmative procurement;

- (vi) Compliance with legislation on skills development and the amounts spent on the training of Black persons, youth, women, people with disabilities and participation in learnership programmes; and
- (vii) Corporate social investment.

(b) **Fishing performance**

- (i) The fishing performance of applicants holding fishing rights in the Large Pelagic fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch and subsequent submission of catch data for at least five years during the period 2007-2014.

(c) **Local economic development**

- (i) In order to promote local economic development, the Delegated Authority will give preference to applicants who will land catches at harbours situated outside of metropolitan areas, and process catches at land-based processing establishments outside of metropolitan areas. Metropolitan areas include the areas under the control of metropolitan (category A) municipalities (City of Cape Town; Nelson Mandela Bay Metropolitan Municipality; and Buffalo City Metropolitan Municipality).
- (ii) The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, use the locality of landing sites and fish processing establishments as scoring or tie-breaking criteria. For these purposes the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

(d) **Job creation**

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated a right in the Large Pelagic fishery. For these purposes the Delegated Authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (i) permanent employment;
- (ii) medical aid or any other medical support arrangements;

- (iii) pension or provident fund;
- (iv) safe working conditions in accordance with the applicable legislative requirements; and
- (v) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

(e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting in the Large Pelagic fishery. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel, then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant. If an applicant intends building a new vessel, then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel.

(i) Suitable vessels in the Large Pelagic fishery are:

South African flagged fishing vessels

- The suitability of vessels will be determined having regard to, *inter alia*, vessel length (including the performance record of vessels), the ability to monitor and control the vessel and nationality of the vessel. A suitable vessel in the Large Pelagic fishery is a vessel that has a minimum South African Maritime Safety Authority ("SAMSA") registered length of 18 metres. Vessels with lengths less than 18m may be considered having regard to their performance record and safety. Applicants must take cognisance of certain vessel limitations as stipulated in relevant RFMOs.

Further, the nominated vessel must:

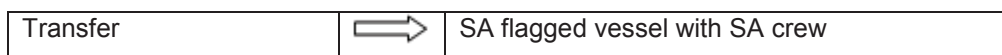
- have a functioning INMARSAT based Vessel Monitoring System ("VMS") installed; and
- not be a vessel that is listed on the official negative vessel lists of ICCAT, the IOTC or the CCSBT.

Foreign flagged fishing vessels

- The Department recognises that, because of a lack of suitable South African vessels and South Africa's limited experience in tuna longlining, joint ventures with non-South Africans may be a necessity. Notwithstanding this, joint ventures between South Africans and non-South Africans must be majority owned by South Africans (i.e. must be South African persons) and managed by South Africans. Evidence of fronting of South Africans will adversely affect an application.
- Accordingly, preference will be given to applicants who demonstrate right of access to or ownership of a suitable vessel with the intention of developing skills in South Africa.
- Experience subsequent to the long-term rights allocation process of 2005 has shown that the reflagging process could be both lengthy and costly. The reflagging process is dependent on the economic profitability of the Large Pelagic fishery, including access to international markets, especially the Japanese sashimi market.
- Therefore, foreign-flagged fishing vessels should be considered for the tuna longline fishing provided that the foreign-flagged fishing vessel adheres to the following:
 - has an initial one-year trial period to determine the feasibility of the joint venture and the reflagging process. Thereafter, the foreign fishing vessel shall reflag within the first three years when operating as a joint venture;
 - prior to commencing the second year of fishing the Right Holder must present the Department with a reflagging and skills transfer schedule indicating targets and timelines;
 - The Department will monitor this process very closely through quarterly reporting on progress by the Right Holder;
 - carries at the cost of the Right Holder, observers nominated by the Department on all fishing trips; the Observers shall be responsible for collecting fisheries data and samples and shall monitor all fishing operations and record any transgressions of the MLRA;
 - in terms of section 39 of the MLRA, be authorised by the relevant authority of the Flag State, in writing, that all catches of large pelagic species, whether harvested on the high seas or in South Africa's Exclusive Economic Zone ("EEZ"), shall

- accrue to South Africa for the duration of the charter or joint venture agreement;
- the use of wire traces will be prohibited;
- owners and operators submit in writing that the vessel shall be subject to laws that govern in the territory of the Republic of South Africa for the duration of the charter or joint venture agreement; and
- To prevent fronting each vessel and each right holder will only be considered once for the duration of the fishing right to enter into a joint venture

Below is a schematic flow diagram of the desired approach for reflagging vessels in tuna longline:



- Further, nominated foreign-flagged vessel must:
 - have a functioning INMARSAT C-based vessel monitoring system ("VMS") installed; and
 - not be a vessel that is listed on the official negative vessel lists of ICCAT, the IOTC or the CCSBT.

(f) **Applicant involvements and relationship with other applicants**

(i) **Entity and their subsidiaries involvement**

A company and its subsidiary/ies may not be granted more than one right in the fishery, so as to avoid fronts and monopolies in order to broaden access to the Large Pelagic resource. Applicants may be required to disclose their relationship to other applicants for the allocation of rights in the fishery, as well as in other commercial fisheries. If an entity and its subsidiary both apply for a right in this fishery, the holding company will be preferred over any subsidiary.

(ii) **Brother-Sister Corporations**

If two or more companies which are owned and controlled by the same shareholders apply for a commercial fishing right in the Large Pelagic fishery, the Department will consider allocating fishing right to one of the companies if two or more of the brother-sister companies qualify for a fishing right in this sector. The Department may also consider dividing one fishing right (TAC

and/or TAE) to the brother-sister companies if they all qualify for a fishing right in the Large Pelagic fishery.

8. Provisional lists, representations and consultations

- 8.1 The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 8.2 The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3 The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision. Further General Reasons for decisions in a specific fishery will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all applicants in the Large Pelagic fishery.

10. Payment of application and grant of right fees

- 10.1 The application fees for this fishery will be determined having regard to:
 - (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right.
- 10.2 The non-refundable application fee shall be payable before submission of the application and only proof of payment shall be brought to the receipting centre.
- 10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

11. Termination of pelagic shark longline exemptions

Pelagic shark longline fishery was terminated on the 31st of December 2005. This was followed by granting of exemptions to the operators that held fishing rights in the sector. The exemption holders were incorporated in to the Large Pelagic fishery in 2011 and were allowed to operate in the sector with an Upper Precautionary Catch Limit ("UPCL") of 2000t dressed weight for sharks as a bycatch in the Large Pelagic fishery. In line with the 2008 Policy for Large Pelagic, the targeting of pelagic sharks in the Large Pelagic fishery by exemption holders is terminated. Any fishing practices

that promote the targeting of pelagic sharks such as the use of wire traces will be prohibited.

The Department encourages the existing exemption holders to adjust their fishing models and reduce their reliance on sharks as pelagic sharks will be considered to be bycatch. The fishing performance of the current exemption holders that were targeting pelagic sharks will be considered as effective utilization of their exemptions. Effective utilisation shall mean activation of the catch permit and subsequent catch data submission for at least five years during the period 2007-2014.

12. Management measures

The management measures discussed below reflects a number of the Department's principal post-right allocation management intentions for this fishery.

- 12.1 The regulation of the commercial Large Pelagic fishery will be in terms of permit conditions designed to ensure the fulfilment of the purpose and objectives of this policy and South Africa's obligations in terms of the various management measures of the applicable RFMOs. The management measures for the Large Pelagic Fishery that are not covered specifically by any of the relevant RFMOs will be in line with the following permitted:

- 12.1.1 specified types and quantities of fishing gear;
- 12.1.2 with respect to any closure of an area that prohibits all fishing (i.e. Operation Phakisa's proposed Marine Protected Areas);
- 12.1.3 establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on:
 - (i) the catch of fish (based on area, species, size, number, weight, sex, bycatch, biomass, or other factors); and
 - (ii) sale of fish caught consistent with any applicable safety and quality requirements.
- 12.1.4 require that one or more observers be carried on board a vessel engaged in fishing for Large Pelagic species under the policy, for the purpose of collecting data necessary for the conservation and management of the fishery;
- 12.1.5 include conservation and management measures that inhibit fishing practices that result in high levels of bycatch or bycatch mortality;
- 12.1.6 if requested by the department, reserve a portion of the allowable biological catch of the fishery for use in scientific research; and
- 12.1.7 include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery

populations as outlined in, but not limited to the following: NPOA-Sharks, the NPOA-Seabirds, Migratory Species Act, Operation Phakisa's proposed Marine Protected Areas.

- 12.2 The following principal regulatory measures will apply to the harvesting of Large Pelagic species in the Atlantic and Indian Oceans. These regulatory measures are reviewed annually and subject to change by the department on recommendation of the Large Pelagics and Sharks Scientific Working Group and the Large Pelagics Management Working Group.

Atlantic Ocean	Indian Ocean
Annual ICCAT swordfish country allocation granted to South Africa for South Atlantic swordfish. This allocation changes annually.	No catch limit for swordfish.
No catch limit on tunas, except for southern bluefin where a catch limit will be implemented.	No catch limit on tunas, except for southern bluefin where a catch limit will be implement. IOTC fleet capacity limitation applies for bigeye tuna.
All vessels shall have unrestricted access to swordfish in the South Atlantic Ocean until 50% of the ICCAT swordfish country allocation has been landed by the large pelagic fishery. The remaining 50% shall be equally divided amongst all active Rights Holders.	
Southern bluefin tuna will be managed through individual apportionment to right holders at the start of the permit year. Individual apportionment is dependent upon the CCSBT country allocation	Southern bluefin tuna will be managed through individual apportionment to right holders at the start of the permit year. Individual apportionment is dependent upon the CCSBT country allocation

granted to South Africa. As of the 30th May each year, quotas of non-active right holders shall be equally divided among, 1) active Large Pelagic Right Holders (i.e. those Permit Holders which are physically fishing), and 2) among vessels that have activated a permit and were actively fishing the previous season, for the remainder of the season. Any additional southern bluefin tuna shall not be retained on board unless prior approval has been granted for a transfer of southern bluefin tuna quota from another tuna right holder. Quotas or part thereof may be transferable to other Large Pelagic Right Holders subject to both parties providing consent to the Department for approval. No further landing of southern bluefin will be permitted once country allocation has been reached.	granted to South Africa. As of the 30th May each year, quotas of non-active right holders shall be equally divided among, 1) active Large Pelagic Right Holders (i.e. those Permit Holders which are physically fishing), and 2) among vessels that have activated a permit and were actively fishing the previous season, for the remainder of the season. Any additional southern bluefin tuna shall not be retained on board unless prior approval has been granted for a transfer of southern bluefin tuna quota from another tuna right holder. Quotas or part thereof may be transferable to other Large Pelagic Right Holders subject to both parties providing consent to the Department for approval. No further landing of southern bluefin will be permitted once the country allocation has been reached.
The Precautionary Upper Catch Limit (PUCL) for sharks is set as an annual allocation of landed dressed weight. The PUCL will be adjusted annually as new information becomes available, based on the recommendation of the LPSSWG. The PUCL will be managed on an Olympic system; once 80% of the PUCL has been caught the remaining 20% of the PUCL shall be subdivided equally	The Precautionary Upper Catch Limit (PUCL) for sharks is set as an annual allocation of landed dressed weight. The PUCL will be adjusted annually as new information becomes available, based on the recommendation of the LPSSWG. The PUCL will be managed on an Olympic system; once 80% of the PUCL has been caught the remaining 20% of the PUCL shall be subdivided equally among active

among active Right Holders. Quotas or part thereof may be transferable to other tuna and swordfish Right Holders subject to both parties providing consent to the Department for approval (Attn: Assistant and Deputy Directors: Pelagic and High Seas Management). Once the PUCL limit has been reached the fishery shall close.	Right Holders. Quotas or part thereof may be transferable to other tuna and swordfish Right Holders subject to both parties providing consent to the Department for approval (Attn: Assistant and Deputy Directors: Pelagic and High Seas Management). Once the PUCL limit has been reached the fishery shall close.
Thresher sharks belonging to the genus <i>Alopias</i> , hammerhead sharks (belonging to genus <i>Sphyrna</i>), oceanic whitetip sharks (<i>Carcharhinus longimanus</i>), porbeagle sharks (<i>Lamna nasus</i>), dusky sharks (<i>Carcharhinus obscurus</i>) and silky sharks (<i>Carcharhinus falciformis</i>) shall not be retained on board the vessel.	Thresher sharks belonging to the genus <i>Alopias</i> , hammerhead sharks (belonging to genus <i>Sphyrna</i>), oceanic whitetip sharks (<i>Carcharhinus longimanus</i>), porbeagle sharks (<i>Lamna nasus</i>), dusky sharks (<i>Carcharhinus obscurus</i>) and silky sharks (<i>Carcharhinus falciformis</i>) shall not be retained on board the vessel.
No vessel shall use wire leaders attached to or within 50cm of the hook.	No vessel shall use wire leaders attached to or within 50cm of the hook.
Setting and retrieving of longlines can be conducted in South Africa's Exclusive Economic Zone (EEZ), except in the following areas: 1) within a 12 nautical mile area up to 20°E, as well as the area known as the "Cape Canyon"; 2) in any Marine Protected Area.	Setting and retrieving of longlines can be conducted in South Africa's Exclusive Economic Zone (EEZ), except in the following areas: 1) within a 12 nautical mile area , from 20°E to the southern KwaZulu-Natal (KZN)/Eastern Cape provincial border. A 20 nautical mile exclusion limit with an additional 4 nautical mile seaward buffer area for the entire KZN province; 2) in any Marine Protected Area.
Fins may only be landed from shark trunks that are retained onboard and	Fins may only be landed from shark trunks that are retained onboard and both the

both the fins and trunks must be landed together at the first point of landing.	fins and trunks must be landed together at the first point of landing.
The Permit holder is restricted to an initial seabird mortality limit of 25 birds per year irrespective of vessel replacements. No further setting shall be permitted once this limit is reached, until the Department has reviewed compliance with permit conditions. Permit Holders which have reached a mortality of 50 seabirds shall immediately stop fishing.	The Permit holder is restricted to an initial seabird mortality limit of 25 birds per year irrespective of vessel replacements. No further setting shall be permitted once this limit is reached, until the Department has reviewed compliance with permit conditions. Permit Holders which have reached a mortality of 50 seabirds shall immediately stop fishing.
Live turtles should be released according to the instructions provided in the permit conditions. Remove the hook either with a de-hooker or cut the line as close to the hook as possible.	Live turtles should be released according to the instructions provided in the permit conditions. Remove the hook either with a de-hooker or cut the line as close to the hook as possible.

- 12.3 In addition to the above regulatory controls, Right Holders will not be permitted to tranship while at sea. Transhipments in port will only be allowed in the presence of Fishery Control Officer or monitor subject to a permit being issued for the transhipment.

12.4 Ecosystem approach to fisheries

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

12.5 Observer Programme

- (a) The right holder of a commercial Large Pelagic fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- (b) The right holder might be required to bear the costs of the observer deployment

when so required by the Department.

- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and to test compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board the right holders fishing vessel, the Department may implement proceedings under section 28 of the MLRA.

12.6 **Performance measuring**

Successful applicants will be subjected to performance measuring for the duration of their fishing rights. 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.

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:

- (i) transformation;
- (ii) investment in vessels, factories and gear;
- (iii) sustainable utilisation, and in particular by-catch mitigation and the reduction of the biological and ecological impacts of longlining;
- (iv) tuna and swordfish catch performance; and
- (v) compliance with applicable laws and regulations.

12.7 **Offences**

- (a) A successful applicants that fails to utilise their Large Pelagic fishing right for one season without any reasonable explanation or that contravenes the provisions of the MLRA, will be subject to proceedings under s28 of the MLRA.

13. **Permit conditions**

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this fishery and will be revised as and when it may be necessary. Management and conservation measures of RFMO's responsible for tuna and tuna-like species management and conservation, like but not limited to CCSBT, ICCAT and IOTC will be taken into consideration.

14. Glossary of Terms

- 14.1 "Brother-Sister corporations" are subsidiary companies owned by the same parent company.
- 14.2 "Close corporation" means close corporation in terms of the Close Corporations Act, 1984 No. 69 of 1984, of which the majority of members are South African persons
- 14.3 "Company" means a company registered in terms of the Companies Act No. 71 of 2008, of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 14.4 "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 14.5 "Legal entity" means a close corporation or company.
- 14.6 "MLRA" means the Marine Living Resources Act, (Act No. 18 of 1998).
- 14.7 "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, (Act No. 18 of 1998).
- 14.8 "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right, or which will be granted a right in the allocation process envisaged in this policy.
- 14.9 "South African citizen" means a South African citizen in terms of the South African Citizenship Act, Act No. 88 of 1995.
- 14.10 "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company.
- 14.11 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 14.12 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 14.13 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 14.14 "Total Allowable Catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 14.15 "Total Applied Effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish for individual species or groups of species.