



UMNYANGO WEZAMAHLATHI, EZOKUDOBA NEZEMVELO

INQUBOMGOMO EWUHLAKA YEZOKWABIWA KWAMALUNGELO OKUDOBELA UKUHWEDA: 2021

**LE NQUBOMGOMO EWUHLAKA KUMELE IFUNDWE NDAWONYE NEZINQUBOMGOMO
EZIWUHLAKA EZIFANELE EZIQONDENE NEMBONI YEZOKUDOBA UKUZE KUDLULISWE
AMALUNGELO OKUDOBELA UKUHWEDA (ezitholakala ku-www.environment.gov.za)**

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I. Izincazelo

"Umfakisicelo" kushiwo umuntu waseNingizimu Afrika njengoba echazwe kuMthetho Wezinsiza Eziphilayo Zasolwandle 18 we-1998 ofake isicelo selungelo lokudobela ukuhweba emkhakheni oqondene nembali yezokudoba ofanelwe wukuthola isabelo.

"Isikhathi sokufaka isicelo" kushiwo isikhathi esiqala ngokushicilelwa *"kwesimemo sabanentshisekelo ukuba bafake isicelo selungelo lokudobela ukuhweba embonini yezokudoba"* kuze kube wusuku uphiko lwezokudluliswa kwezinqumo oluyogcina ngokuthatha isinqumo ngokudluliswa kwezinqumo kuleyo mboni yezokudoba.

"Abantu abamnyama noma umuntu omnyama" ngokoMthetho Wezokufukulwa Kwabantu Abamnyama Kwezomnotho Obanzi, 2003 (uMthetho No. 53 wezi-2003 kushiwo Abampisholo, Amakhaladi, Ama-China namaNdiya ayizakhamizi zakuRiphabhulikhi yaseNingizimu Afrika ngokuzalwa noma ngokozalo noma ababe yizakhamizi zakuRiphabhulikhi yaseNingizimu Afrika ngokunikwa ilungelo lokuba yisakhamuzi ngaphambi komhla zingama-27 Ephreli 1994; noma ngawo noma ngemuva komhla zingama-27 Ephreli 1994 futhi abafaneleke ukuthola ilungelo lokuba yizakhamizi ngaphambi kwalolo suku kodwa ababengavunyelwe ukuba benze njalo ngaphansi kwezinqubomgomo zoBandlululo.

"Okudobekile" kushiwo okudotshiwe okungasikho lokho okuhloswe ukuba kubanjwe emsebenzini wokudoba njengoba kubhalwe kuzinqubomgomo eziqondene nomkhakha. Okudobekile kubandakanya okubuywe nakho nokulahliwe kanye nalokho okulimele noma okubulawe impahla yokudoba.

"Isivumelwano sokudoba" kushiwo isivumelwano esiyisibopho ngokomthetho esiphakathi kwabantu noma izikhungo ezimbili noma ngaphezulu esibhalwe indlela okumele isikebhe sokudoba sisetshenziswe ngayo yilabo abangene kuleso sivumelwano kanye/noma ngendlela okudotshiwe okuzokwabelwana ngakho phakathi kwalabo abangene esivumelwaneni. Isivumelwano sokudoba siyohlinzeka ngohlaka lomthetho olungasetshenziswa ngabantu ukuhweba ebhizinisini nokushintshisana ngezinsiza, bagcine ulwazi lokuthi umthetho uzogcina izivumelwano zabo futhi, uma kunesidingo uziphophelele. Umthetho wezinkontileka uyisisekelo sebhizinisi elizimele eNingizimu Afrika futhi ulawula izintshisekelo zalo kwezokuhweba ngokulinganayo. Isivumelwano sokudoba kumele sihlinzeke ngezixazululo ngokuphulwa komthetho okuhloswe ngawo ukugcwalisa noma ukusula noma ukukhansela lesa sivumelwano.

"Izinqubo Zokuziphatha Okuhle" kushiwo iziNqubo Zokuziphatha Okuhle ze-BEE ezashicilelwa nguNgqongqoshe Wezohwebo, Izimboni kanye Nezokuncintisana ngowezi-2004 ngokoMthetho Wezokufukulwa Kwabantu Abamnyama Kwezomnotho Obanzi, 2003 (uMthetho No. 53 wezi-2003).

"Impahla ekhokhelwa onyakeni" kushiwo impahla engaguqulwa ibe yimali esikhathini sonyaka noma ngesikhathi sohlelo lokusebenza olujwayelekile.

"izikweletu ezikhokhwa onyakeni" izikweletu noma izibopho zenkampani okumele zikhokhwe onyakeni owodwa noma ngesikhathi sohlelo lokusebenza olujwayelekile.

"UMnyango" kushiwo uMnyango Wezamahlathi, Ezokudoba Nezemvelo.

"Iqembu Eliqondiwe" kushiwo abantu abamnyama, abesimame kanye nabantu abaphila nokukhubazeka njengoba kuchazwe kuMthetho Wezokulinganisa Kwezemisebenzi, 1998 (uMthetho No. 55 we-1998).

"Indawo Eklanyelwe Ezomnotho Ngokukhethekile" kushiwo indawo esogwini kanye nephansi lolwandle kuyofinyelela kuma-200 nautical miles kusukela ogwini noma kwengaphandle lamatshe olwandle, lapho kuyizwe elingaphesheya elinelungelo nomthwalo wokulawula.

"Umzamo" kushiwo ubungako besikhathi kanye namandla okudoba asetshenziswe lapho kuvunwa izinhlanzi. Amandla okudoba abandakanya ubungako bempahla yokudoba, ubungako besikebhe, kanye namandla enjini.

"Imboni yezokudoba" kushiwo (1) inhlanzi eyodwa noma iqoqo lezinhlazi, noma emiphi imisebenzi yezokudoba ngokususelwa kulawo maqoqo okungathathwa ngokuthi akhishelwe izinhloso zokugcinwa nezokuphathwa futhi ahlonzwa ngokwendawo, ngokwemvelo, ngokwezobungoti, ezohwebo, ezokuzijabulisa, ezomnotho kanye/noma ezinye izakhi ezisebenzayo; kanye (2) nanoma wokuphi ukudotshwa kwalelo qoqo.

"Ukudoba" kushiwo (a) ukucinga, ukubamba, ukuthatha noma ukuvuna izinhlanzi noma ukuzama omunye womsebenzi onjalo; (b) ukwenza noma womuphi omunye umsebenzi okungalindeleka ukuba uholele

ekwabiweni, ekubanjweni, ekuthatheni noma ekuvuneni izinhlanzi; (c) ukubeka, ukucinga noma ukuthola noma eyiphi insiza yokukala izinhlanzi noma impahla ehambisana nakho, okubandakanya amarediyo akhomba indawo; (d) noma omuphi umsebenzi owesekela noma ekulungiseleleni noma omuphi umsebenzi ochazwe kule ncazelo; noma (e) ukusetshenziswa kwendiza kunoma omuphi umsebenzi ochazwe kule ncazelo.

"Amalungelo okudoba" kushiwo ilungelo lokubamba uhlobo lwenhlanzi oluqondiwe ngesikhathi esinqunyiwe.

"Umndeni" kushiwo iqembu lomphakathi elihlobeni ngokwegazi (isihlobo segazi), ukuba yilungu lomndeni ngokomthetho ube ungazalwa kuwo, ukunakekelwa kwezingane ezingenabazali noma ukuhlangani ngokomshado (owesilungu, owesintu noma wenkolo), ukushada kwabobulili obufanayo noma ukuhlalisana, futhi kuyadlula ekuhlaleni endaweni eyodwa.

"Ukukhohlisa ngobunikazi" kushiwo ukweqa ngenhloso noma ukuzama ukweqa uMthetho neziNqumo ze-B-BBEE. Ukukhohlisa ngobunikazi kuvame ukubandakanya ukwethembela kumininingo noma ukuqamba amanga ngokulandelwa komthetho ngokususela ekuvezweni kokungasilo iqiniso, okungabe kwenziwe ngothi ulandele umthetho noma omunye umuntu.

"Okubuywe nakho" kushiwo isibalo noma isisindo sezinhlanzi okubuywe nazo esikhumulweni semikhumbi (zohwebo) noma ogwini (zokuzijabulisa). Okubuywe nakho kubikwa ngakho ezindaweni okulethwa kuzo izinhlanzi ogwini.

"UNgqongqoshe" kushiwo uNgqongqoshe Wezamahlathi, Ezokudoba Nezemvelo.

"Oqalayo ukungena" kushiwo umfakisicelo, ngokomlando, ongakaze afake isicelo selungelo lokudobela ukuhweba embonini yezokudoba noma kunoma omuphi umboni yezokudoba.

"Ubunikazi bemvume ngokwamaphepha" kushiwo umfakisicelo ozosebenzisa ilungelo lakhe ukuthola ingeniso kuphela engenhloso yotshalomali noma inhloso etheni yokwabelana ngobungozi noma ukubamba iqhaza ngokugcwele emkhakheni - okuwukuthi uzodayisa noma adlulisele ilungelo kwenye inkampani noma umuntu.¹

"Impahla Esetshenziswa Yibhizinisi" kushiwo impahla, okubandakanya impahla yomuntu othile ongumnikazi ngokuqondile noma ngokungaqondile ngobunikazi bamasheya ebhizinisi ohlobo olusetshenziswayo noma awusizo ebhizinisini eliqondene namakhebula.

"Isabelo" kushiwo umkhawulo wesisindo sezinhlanzi ezingadotshwa ngokohlobo oluthile noma endaweni ethile; umkhawulo ngokwesaka uyisabelo (kuvame ukuba ngokwesibalo sezinhlanzi ezidotshiwe) esisetshenziswa ngabadobi abadobela ukuzijabulisa.

"Umnikazi Welungelo" kushiwo umuntu onelungelo lokuhweba ngezinhlanzi elisemthethweni.

"Izinhlobo eziqondiwe" kushiwo izinhlobo zezinhlanzi noma inhlanganisela yezinhlobo zezinhlanzi ezikhishelwe amalungelo okudoba futhi okuphokophelwe noma okuhloswe ukuba zidotshwe emkhakheni othile wezokudoba njengoba kubhalwe kuzinqubomgomo eziqondene nomkhakha.

"Ukuphokophela" kushiwo ukusebenzisa impahla yokudoba ngendlela ethile ngesikhathi esifanele kanye nesikhala ngenhloso yokudoba uhlobo oluthile noma inhlanganisela yezinhlobo ezithile.

"Inani Lokuvumelekile Okungadotshwa Sekukonke (i-TAC)" kushiwo ubungako bezinhlanzi zohlobo olulodwa noma iqoqo lezinhlobo okuvumeleke ukuba zidotshwe minyakayonke noma ngesikhathi esithile njengoba kungase kumiswe, okuqondene nokudobela ukuzijabulisa, ukuziphilisa, ukuhweba namanye amazwe noma isamba esiwumkhawulo okungeqiwe kuwo sezinhlanzi okuvumeleke ukuba zidotshwe ngokohlelo lokuphatha olucacisiwe.

"Umzamo Osetshenziswayo/ Ovumelekile Ophelele (i-TAE)" kushiwo isibalo esiwumkhawulo omkhulu okungeqiwe kuwo sezikebhe, uhlobo, ubungako kanye namandla enjini azo noma izindlela zokudoba ezifakelwe izicelo okungakhishwa ngazo amalayisense noma izimvume zezikebhe zokudoba ezingakhishelwa uhlobo oluthile lwezinhlanzi noma lwamaqoqo ezinhlanzi, noma isibalo esiwumkhawulo omkhulu okungeqiwe kuwo wabantu abangagibela isikebhe sokudoba esikhishelwe amalayisense noma izimvume ezingase zikhishelwe izinhlanzi zohlobo oluthile lwezinhlanzi noma amaqoqo ezinhlobo zezinhlanzi noma isibalo esiwumkhawulo omkhulu okungeqiwe kuwo wesikhathi kanye/noma amandla okudoba okuvumeleke ukuba asetshenziswe lapho kuvunwa izinhlanzi. Amandla okudoba abandakanya ubungako bempahla yokudoba, ubungako besikebhe, kanye namandla enjini.

II. Izingamulelo

I-CAF	I-Consultative Advisory Forum (Isigungu Sezokweluleka Ngokubonisana)
I-CPUE	I-Catch Per Unit Effort (Umzamo Wokungadotshwa Ngokweyunithi)
I-CRDP	I-Comprehensive Rural Development Plan (Uhlelo Oludidiyele Lokuthuthukisa Lwasezindaweni Zasemakhaya)
I-EEZ	I-Exclusive Economic Zone (Indawo Eklanyelwe Ezomnotho Ngokukhethekile)
I-FTC	I-Fisheries Transformation Council (UMkhandlu Wezokuguqula Umboni yezokudoba)
I-IGDP	I-Integrated Growth and Development Plan (Uhlelo Lokukhulisa Nokuthuthukisa Oludidiyele)
I-IPAP	I-Industrial Policy Action Plan (Uhlelo Lomsebenzi Wezinqubomgomo Zezimboni)
I-MLRA	I-Marine Living Resources Act, 1998 (UMthetho Wezokuphathwa Kwezinsiza Eziphilayo Zasolwandle) (UMthetho No. 18 we-1998)
I-MLRF	I-Marine Living Resources Fund (Isikhwama Sezinsiza Eziphilayo Zasolwandle)
I-NDP	I-National Development Plan (Uhlelo Lokuthuthukisa Lukazwelonke)
I-NGP	I-New Growth Path (Indlela Yokukhula Entsha)
I-PUCL	I-Precautionary Upper Catch Limit (Umkhawulo Wokudotshwayo Ngaphezulu Wokuqikelela)
I-RFMO	I-Regional Fisheries Management Organisation (Inhlangano Yezokuphathwa Kwezokudoba Yesifunda)
I-TAC	I-Total Allowable Catch (Inani Lokuvumelekile Okungadotshwa Sekukonke)
I-TAE	I-Total Applied Effort (Umzamo Osetshenzisiwe Uwonke)

INGXENYE A: ISINGENISO

1. ISINGENISO

- 1.1 Le ***Nqubomgomo Ewujikelele yezoKwabiwa Kwamalungelo okudobela ukuhweba: 2021*** ikhishwe uNgqongqoshe Wezamalathi, Ezokudoba Nezemvelo ("uNgqongqoshe") futhi izobizwa ngokuthi "***Inqubomgomo Ewujikelele: 2021***".
- 1.2 Inhloso ye***Nqubomgomo Ewujikelele: 2021*** wukuba wumhlahlandlela wokwabiwa nokugunyazwa kamalungelo okudobela ukuhweba okumiswe kusigaba 18 soMthetho Wezinsiza Eziphilayo Zasolwandle 18 wezi-1998 ("i-MLRA") kuwo wonke umboni yezokudoba ngokulandela "***Inqubomgomo eqondene nomboni yezokudoba***".
- 1.3 Ukwabiwa nokugunyaza amalungelo njengoba kuhlinzekwe kusigaba 18 se-MLRA somboni yezokudoba wodwa uzolawulwa "***yiNqubomgomo Yemboni Yezokudoba***" ecacisiwe yomkhakha ngamunye, ephinde ibizwe ngokuthi "***Izinqubomgomo eqondene nomboni yezokudoba***".
- 1.4 Izinqubomgomo Eziwujikelele neziqondene nomboni yezokudoba zisuselwa kuMthetho woMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika 1996 (uMthetho No. 108 we-1996) ("uMthethosisekelo"), i-MLRA, umthetho Wezokufukula Abantu Abamnyama Kwezomnotho 53 wezi-2003 ("uMthetho we-BBBEE"), uMthetho Wesikhwama Sokufukulwa Kwabantu Kuzwelonke 105 we-1998 ("i-NEFA"), uMthetho Wokukhuthaza Ukuphathwa Kobulungiswa, 2000 ("i-PAJA"), uMthetho Wokugquguzela Ukutholakala Kolwazi, No.2 wezi-2000 ("i-PAIA"), uMthetho Wokuvikela Ulwazi Lomuntu Siqu, 2013 (uMthetho No. 4 wezi-2013) ("i-POPI") , uMthetho Wezigcinalwazi Kuzwelonke waseNingizimu Afrika, 1996 (uMthetho No. 43 we-1996) kanye nezinqubomgomo zikahulumeni ezisemqoka ezinjengoHlelo Lwentuthuko Lukazwelonke (i-NDP), uHlelo Lokukhula Nokuthuthukisa Oludidiyele (i-IGDP) Lwezolimo, Ukuthuthukiswa Kwezindawo Zasemakhaya kanye Nokubuyiswa Komhlaba, Inqubo Yokukhula Entsha (i-NGP), uHlelo Lomsebenzi Lwezinqubomgomo Lwezimboni lowezi-2012 (i-IPAP) kanye noHlelo Lokuthuthukiswa Kwezindawo Zasemakhaya Oludidiyele (i-CRDP) kanye nezinye izinsiza ezifanele zamazwe ngamazwe kanye nezivumelwano ezisayinwe yiNingizimu Afrika, ezisebenza ekwabiweni kwamalungelo okudobela ukuhweba.

- 1.5 INqubomgomo Ewujikelele: 2021 kumele ifundwe ndawonye "nezinqubomgomo eziqondene nomboni yezokudoba" ezisetshenziswa umboni yezokudoba ngamunye.
- 1.6 Amandla okwaba nokugunyaza amalungelo okudobela ukuhweba ngokwesigaba 18 se-MLRA anikezwe uNgqongqoshe. UNgqongqoshe angase, ngokwesigaba 79 se-MLRA, adlulise noma amaphi amandla akhe kunoma esiphi isikhulu (izikhulu) soMnyango Wezamazalathi, Ezokudoba Nezemvelo ("uMnyango") okwaba nokugunyaza amalungelo okudobela ukuhweba. Njengakuwo wonke amanye amandla adlulisiwe, uma lawo mandla esesetshenziswe Wonikwe Igunya, Onikwe Igunya akanakusibuyekeza isinqumo sakhe (okuwukuthi kusebenza umgomo wokuthi isinqumo sesikhulu siyisinqumo sokugcina).

2. UKUSETSHENZISWA KWENQUBOMGOMO EWUJIKELELE: 2021

2.1 INqubomgomo Ewujikelele: 2021 isebenza lapho:

- (a) Ukwabiwa kwamalungelo okudobela ukuhweba emikhakheni yezokudobela ukuhweba elandelayo: I-Abelone, i-Demersal Shark Longline, i-Hake Deep Sea Trawl, i-Hake Handline, i-Hake Inshore Trawl, i-Hake Longline, i-Horse Mackerel, i-Seine, yolwandle lwaKwaZulu-Natali, i-Prawn Trawl yaKwaZulu-Natali, i-Pelagic Longline Enkulu, Ukudoba ngenethi (i-Gillnets ne-Beach Seine), Izimbada, i-Patagonian Toothfish, i-Seaweed, i-Pelagics Encane, Isikhuphashi Sasemadwaleni yaseNingizimu Afrika, i-Squid, Ukudoba ngentambo kwasendulo, i-Tuna Pole-Line, isikhuphashi sasemadwaleni Sasogwini Olusentshonalanga (Eduze Kogu), isikhuphashi sasemadwaleni Sasogwini Olusentshonalanga (Sangaphandle Kogu), kanye Nezimbaza Ezimhlophe, ngaphandle kwalapho umkhakha ugcina usuphethwe ngaphansi komunye umkhakha kunomkhakha wezokudobela ukuhweba;
- (b) Uma kwenzeka umboni yezokudoba wabiwe noma ususwe umkhakheni wezokudobela Ukuziphilisa, leyo mikhakha yezokudoba izophathwa ngokweNqubomgomo Yabadobi Abadobela Ukuziphilisa kanye neMithethonqubo ehambisana nayo; kanye
- (c) nemikhakha yezokudoba engase itholakale futhi yenziwe ibe ngamabhizinisi.

2.2 Izinhlinzeko zeNqubomgomo Ewujikelele: 2021 zizofundwa ndawonye nezinqubomgomo eziqondene nomboni yezokudoba. Izinhlinzeko zeNqubomgomo Ewujikelele: 2021 zizobekwa

phambili uma kwenzeka kuba nokushayisana phakathi kwezinhlinzeko zeNqubomgomo Ewujikelele: 2021 kanye nezinqubomgomo eziqondene nomboni yezokudoba.

3. IPHROFAYELA Yomboni yezokudoba WASENINGIZIMU

- 3.1 INingizimu Afrika inamandla phezu Kwezindawo Eziklamiwe Zomnotho Ngokukhethekile (ama-EEZ) ezingama-1071 883 km². I-EEZ inezinsiza zasolwandle ezibalulekile okubandakanya umboni yezokudoba. Ukudoba kungenziwe ngaphandle kwasezikebheni zaseNingizimu Afrika. Ugu lwaseNingizimu Afrika lunaba lusuka emfuleni i-Orange River (umngcele wogwadule lwaseNamibia ogwini olusentshonalanga), eningizimu emaphethelweni Afrika, nasenyakatho-mpumalanga yomngcele waseMozambique, futhi lulinganiselwa kuzi-3000km. Umumo wolwandlekazi oluzungeze iNingizimu Afrika ungonzulu kakhulu futhi onokunhlobonhlobo emhlabeni. Unomthelela wokubili okuluqhubayo, i-Agulhas Current efudumele, ehamba ngesivinini esikhulu ogwini olusempumalanga naseningizimu kanye ne-Benguela Current esemgceleni osemipumalanga ogwini lwasentshonalanga.
- 2.2 Ngokwephepha elibhalelwe umboni yezokudoba laseNingizimu Afrika kanye Nesivumelwano Sokubambisana Kwezomnotho se-SADC-EU:2017, umboni yezokudoba waseNingizimu Afrika unegalelo elingaphansi kuka-1% kuMkhiqizo Wezwe Omkhulu uwonke (i-GDP), kanye nama-5% e-GDP yesifundazwe saseNtshonalanga Kapa, kodwa kuwumkhakha osebenza ngokweqhingasuka kakhulu lokutholakala kokudla, ukuqashwa kwabantu, kanye nomthelela kwezemvelo. Izinsiza zokudoba ziyavuseleleka ngokwazo, futhi uma ziphethwe kahle isikhathi sokusebenza kwaso asinamkhawulo. Umboni yezokudoba waseNingizimu Afrika ulinganiselwa kuzigidigidi zamarandi eziyi-8 ngonyaka, uqasha abantu abayizi-28 000 futhi ungumthombo wamaphrotheni omuhle.
- 2.3 Umboni yezokudoba waseNingizimu Afrika onhlobonhlobo wakhiwe ngumkhakha wezokudobela ukuhweba, ukuziphilisa, ukuzijabulisa nokudoba kwamanye amazwe, futhi kuphethwe ngokwezinhlinzeko ze-MLRA ngaphansi kwamandla oMnyango Kazwelonke. Ngaphansi kwalo Mthetho, abasemagunyeni abanomthwalo baphoqelekile ukuphatha le mikhakha yezokudoba ngokuqikelela nangendlela egcinekayo. Ngakho-ke kudingeka ukuthi kuphendulwe ngoshintsho olukhulu noluzohlala isikhathi eside lokwabiwa nobuningi kwezinsiza kuhambisana nokuchitshiyelwa kwezinqubomgomo ngocwaningo nokuphatha. Lokhu kubandakanya Ukwabiwa Kwamalungelo, ukuhleleka kwezikhathi nezikhathi kwama-TAC nama-TAE agcinekayo, kanye nokuthuthukiswa

kweziNqumo Zokuphatha Imisebenzi (ama-OMP), engashintshashintsheka ngokwanele ukuze kubhekwe ukwanda kanye nokunye okungase kuvele ngenxa yoGuquguquko Lwesimo Sezulu. Abafakizicelo abaphumelele banikwa iLungelo lokudobela ukuweba noma ukuziphilisa, ukuzibandakanya kokwenziwa olwandle noma ukusebenza esakhiweni sokulungisa izinhlanzi ngokwezinhlinzeko seSigaba 18 se-MLRA. Ama-TAC noma ama-TAE omhlaba jikelele, noma inhlanguanisela yawo, anqunywa futhi Abelwe imikhakha yezinhlanzi ekhona ngokwezinhlinzeko zesigaba 14 se-MLRA, kanye nama-TAC noma ama-TAE ezohwebo ahlukaniswa ngokwabanikazi bamalungelo amabhizinisi akhona. Abanikazi bamalungelo baphinde banikwe izimvume zokusebenzisa amalungelo minyakayonke ngokwezinhlinzeko zesigaba 13 se-MLRA, kuncike ekuhlangabezaneni nemigomo efanele enqunywa uNgqongqoshe kuleyo mvume. Ukukhipha izimvume kwangomuso kungase kunqatshwe lapho imigomo yalezo zimvume ingalandelwanga.

- 2.4 Inselele ekuqaliseni i-MLRA ibe wukuvuselela umboni yezokudoba waseNingizimu Afrika ukulinganisa ukumeleleka ngokobuhlanga kanye nesidingo sokwandisa ukulinganisa izinzuzo zezinhlalakahle nezomnotho zezinsiza zomboni yezokudoba kuqhathaniswa nesimo semvelo sensiza kanye nesidingo sokuqinisekisa ukugcineka ukuze zitholwe yizizukulwane zangomuso. Imboni yezokudoba ibilokhu igunyazwa inqwaba yabantu abaqalayo ukungena noma ababephucwe amathuba ngokomlando wezwe ilungelo lokungena emkhakheni wezokudobela ukuhweba ngokwezinhlinzeko zesigaba 18 se-MLRA. Izinkampani ezinhlobonhlobo ezidobayo ziyaguqulwa ngaphakathi ukuze zikwazi ukumeleleka ngokobuhlanga ngokuFukulwa Kwabantu Abamnyama Kwezomnotho Okunzulu ('i-BBBEE') kanye nezinqubo zokuqasha ngokulinganisa, kodwa inqubo yokuguqula umboni yezokudoba uyaqhubeka.
- 2.5 NgokweSimo sowezi-2020 soMbiko Wezinsiza Zomboni yezokudoba Olwandle waseNingizimu Afrika, ama-61% ezinhlanzi eziyizinsiza zomboni yezokudoba olwandle azikho esimweni esikhathazayo (isigaba esiluhlaza sasibhakabhaka nesigaba esiluhlaza satshani), kube ama-39% ezinhlanzi ayakhathaza (izigaba eziphuzi nezibomvu). Lezi zibalo ziveza ukuthuthuka eminyakeni eyisishiyagalombili (8) edlule, kube ama-46% ezinhlanzi abethathwa ngokuthi asesimweni esikhathazayo ngowezi-2012, ama-49% ngowezi-2014 kanye nama-52% ngowezi-2016. Imininingwane ngokwephrofayela yomboni wezokudobela ukuhweba ngayinye ingatholakala kuzinqubomgomo eziqondene nomboni yezokudoba.

2.6 UMnyango uqaphele ngokukhathazeka isimo sokudonsa kwamalungelo okudobela Ukuhweba esikhathi eside ngokuthi kunokukhala kwabantu abasembonini yezokudoba maqondana nokufukulwa ngokomnotho kwabantu ababephucwe amathuba phambilini, izabelo ezisebenzayo ngokwezomnotho kanye nokungabibikho kobulungiswa emphakathini, okumele kubhekanwe nakho ngokweqhingas. Inqubo yokwakha kabusha imboni yezokudoba iyaqhubeka.

4. INHLOSO NEZIMPOKOPHELO

4.1 Inhloso nezimpokophelo zeNqubomgomo Ewujikelele: 2021, indawonye nezinqubomgomo eziqondene nomboni yezokudoba ihlose ukuqalisa izimpokophelo ze-MLRA ezisohlwini olukusigaba 2 se-MLRA ezibalulekile ekwabiweni nasekugunyazeni amalungelo okudobela ukuhweba.

4.2 Le nqubomgomo yazisa isidingo sokuqinisekisa ukuthi izinsiza zokuphilayo olwandle zisetshenziswa ngokuphelele, isikhathi eside nangendlela efanelekile ukuze kuqinisekise ukugcineka kokuthuthukiswa komboni yezokudoba ukuze kufezeke ukukhula kwezomnotho okubandakanyayo, ukuze kwakheke abantu abenza umsebenzi ngaphakathi kweSikhwama Sezinsiza Eziphilayo Olwandle (i-MLRF) nokwakha ukuqashwa kwabantu okugcinekayo okuhambisana nokuthuthukisa izimpokophelo zikaHulumeni Zikazwelonke. I-MLRA idinga abantu abathatha izinqumo ukuba babheke isidingo sokugcina izinsiza eziphilayo olwandle kwenzelwe izizukulwane zamanje nezangomuso. Umthelela kuzo zombili izinhlobo zezilwane eziqondiwe kanye nohlelo lwemvelo lulonke, okubandakanya izinhlanzi ezingaqondiwe ("okudobekile") okungadotshwa kumele kubhekwe, njengoba kumiswe kusigaba 2 se-MLRA. Isidingo sokugcina imvelo enhlobonhlobo yasolwandle kanye nesidingo sokunciphisa ukungcoliseka kolwandle kumele sibhekwe. Le nqubomgomo ibheke ukuqinisekisa ukusetshenziswa ngendlela egcinekayo yezinsiza eziphilayo zasolwandle, ngokususela emgomweni wezesayensi kanye nezinqubo zokusebenza okuhle zamazwe ngamazwe. Lokhu kwenziwa ngokumiswa kweNani Lokuvumelekile Okungadotshwa Sekukonke (i-TAC) ngokohlobo lokudotshwayo ngakunye noma iqoqo lokudotshwayo endaweni ethile, Umzamo Osetshenziswayo Ophelele (i-TAE) wamayunithi asetshenzisiwe kudotshwa, impahla yokudoba, isikebhe noma abadobi, noma enye impahla yezokuphatha (njengoMkhawulo Wokudotshwayo Ngaphezulu Wokuqikelela (i-PUCL)) noma inhlanguanisela yawo. Uhlu lwezinhlanzi okuphokophelwe kuzo, kanye nemikhawulo yokudobekile wezinhlazi okukhathazekiwe ngazo izobhalwa kuziNqubomgomo Eziqondene Nomkhakha kanye neMigomo yeziMvume ezifanele.

Izindlela zokuphatha okudobekile okukhathazayo ngokwezokulondolozwa kwemvelo embonini yezokudoba ngamunye zizobhalwa kuziNqubomgomo Eziqondene Nomkhakha.

- 4.3 Lobu bungakho noma izindlela ezimiswe kundima 4.2 ngenhla zizobhekwa kuqala ngaphambi kokwabiwa kwamalungelo okudoba, ukuze kugwemwe ukugcwala ngokweqile, ukuthatha ngokweqile kanye nokushayisana phakathi kwabasebenzisi bezinsiza kube kuthuthukiswa ukutholakala kokudla, ukuphatha ngempumelelo kanye nozinzo.
- 4.4 Uguquko lwemboni yezokudoba luphoqelekile ngokomthethosisekelo nomthetho. Okuhamba phambili ekuthuthukisweni koguquko embonini yezokudoba eNingizimu Afrika wuMthetho Wezinsiza Eziphilayo Olwandle we-1998 (i-MLRA)
 - 4.4.1 I-MLRA idinga abantu abathatha izinqumo ukuba babheke isidingo sokuhlela kabusha imboni yezokudoba ukuze kubhekanwe nokungalingani okwadaleka emlandweni futhi kufezeke ukulinganisa ngokuphelele kuyo yonke imikhakha yezokudoba. Uguquko luphoqelekile ngokoMthethosisekelo waseNingizimu Afrika.
 - 4.4.2 UMthetho Wokufukulwa Kwabantu Abamnyama Kwezomnotho Okunzulu 53 wezi-2003 (uMthetho we-BBBEE) ungenye yenqwaba yezinsiza ezingokomthetho eziqalisa lokhu njengoba kuphoqelekile ngokomthetho. UMthetho we-BBBEE uhlinzeka ngokuthi uNgqongqoshe Wezohwebo, Izimboni Nezokuncintisana angase, ngesaziso kuGazethi, akhiphe izinqubo zokusebenza okuhle eziqondene nokufukulwa kwabantu abamnyama kwezomnotho. Lezi zinqubo zihlinzekela ukulinganisa ukuze kukalwe inqubekela-phambili nesimo ngaphakathi emabhizinisini kanjalo nokusetshenziswa kosomqulu bezoguquko oluqondene nemikhakha yomnotho kwababambiqhaza abakhulu kuleyo mikhakha.
 - 4.4.3 UMthetho we-BBBEE nemigomo kwacutshungulwa lapho kubhalwa le Nqubomgomo kanye neziNqubomgomo Eziqondene Nomboni yezokudoba. Ngenxa yohlelo lwenqubo yokwabiwa Kwamalungelo okudobela ukuhweba nangenxa yokuthi awukho umgomo ongahlonzwa maqondana nokuvumela ukugunyazwa ngokomthetho ukuze kudotshwe izinhlanzi, uNgqongqoshe Wezamaqhathi, Ezokudoba Nezemvelo akakakuqalisi ukulinganisa nokuklama amazinga emigomweni eqondene nobunikazi nokuphatha. Uma kwabiwa amalungelo okudobela Ukuhweba,

Onikwe Igunya uyabizwa ukuze luqhathanise izicelo phakathi kwesinye nesinye, kunokuba kuklanywe amazinga ngokubheka okungaphandle.

4.4.4 Inqubomgomo Ewujikelele yowezi-2021 ibheke ukuqhubeka nokuguqula nokuthuthukisa amazinga oququko oselufeziwe embonini yezokudoba. Wuguquko olukuzingaqophelo eliphambili kuphela oluzohlonishwa, okusho ukuthi, uguquko oludala izinzuzo zangempela kulabo ababephucwe amathuba phambilini njengoba kuchazwe kuMthetho Wesikhwama Sokufukulwa Kuzwelonke 105 we-1998 (i-NEFA).

INGXENYE B: INQUBO YOKWABIWA KWAMALUNGELO OKUDOBELA UKUHWABA

5. ISICELO SAMALUNGELO OKUDOBELA UKUHWABA

5.1 Amathimba

UNgqongqoshe noma Uphiko Olunikwe Igunya lungaqoka amathimba kanye/noma amakomidi azosiza ekuphathweni nasekuqalisweni kwenqubo yokwabiwa kwamalungelo okudobela ukuhwaba.

5.2 Izinqubomgomo kanye namafomu okufaka isicelo

5.2.1 UNgqongqoshe uzomemezela emphakathini indlela okuzosetshenziswa ngayo iziNqubomgomo namaFomu Okufaka Isicelo sokwabiwa kwamalungelo okudobela ukuhwaba kanye nokuthi amaFomu Okufaka Isicelo azodluliswa futhi athunyelwe kanjani.

5.2.2 Abafakizicelo kumele baqinisekise ukuthi bahlangabezana nazo zonke izidingo ngaphambi kokugcwaliswa nokuthunyelwa kwamafomu okufaka isicelo.

5.2.3 Kuwumsebenzi wabo bonke abafisa ukufaka izicelo ukuqinisekisa ukuthi izicelo zabo zigcwaliswa ngokufanele futhi zithunyelwe ngesikhathi.

5.2.4 Izicelo ezifike emuva kwesikhathi angeke zamukelwe.

5.3 Izindleko zokukhokhela isicelo

5.3.1 Izindleko zizoshicilelwa eceleni ngokwesigaba 25 se-MLRA futhi zizotholakala ngesikhathi sokufaka isicelo.

5.3.2 Izindleko Zokufaka Isicelo zizonqunywa, phakathi kokunye:

- (a) Yizindleko zokuphathwa kwenqubo yokwabiwa kwaMalungelo okudobela ukuhweba iyonke, okubandakanya ukubonisana, ukudlulisa, ukukhipha amarisidi, ukuhlolwa kwezicelo, ukuqinisekisa, ukudluliswa kwezinqumo kanye nokubuyekeza kwasezinkantolo zamajaji, kanye
- (b) Nezindleko ezihambisanayo nensiza (nezinsiza) ezabiwayo.

5.3.3 Abafakizicelo kumele bakhokhe Izindleko zokufaka Isicelo eSikhwameni Sezinsiza Eziphilayo Zasolwandle ngaphambi kokuthunyelwa kweFomu Lesicelo labo futhi ubufakazi bokukhokha kumele buthunyelwe neFomu Lesicelo uma kufakwa isicelo selungelo lokudoba. Imininingwane yasebhange imi kanje:

Umnikazi We-akhawunti: Marine Living Resources Fund

Igama Lebhange: Name: First National Bank

Inombolo ye-akhawunti: 62123256382

Ikhodi Yegatsha: 210554

Inombolo Eyinkomba: [Umfakizicelo kumele afake inombolo yokufaka isicelo selungelo lokudobela ukuhweba]

5.3.4 Izindleko zesicelo azibuyiswa, ngaphandle kwalapho kunezizathu ezizwakalayo zokubuyiselwa kwaleyo mali.

5.4 Ukuphathwa kwezicelozinxephezelo

5.4.1 Irekhodi lazo zonke izicelozinxephezelo lizogcinwa wuMnyango.

5.4.2 Izicelo zizohlelwa futhi zibekwe ngokwezigaba ngabasembonini yezokudoba ngokwezigaba zabafakizicelo bomboni yezokudoba ngamunye. Izicelo zizohlelwa ngokwezicelo zamabhizinisi nezomuntu ngayedwana.

5.4.3 Labo bafakizicelo abanamalungelo embonini yezokudoba abafaka izicelo kabusha ngesikhathi ilungelo labo ligunyaziwe enqubweni yokwabiwa kwamalungelo kwaphambilini emkhakheni othile, bangathathwa ngokuthi **bayibaFakizicelo Abasesigabeni A**. Abafakizicelo abanamalungelo kweminye imikhakha ngaphandle kwezokudoba abafaka isicelo ngesikhathi sonyaka wezi-2006 kuya kwezi-2020 bangathathwa ngokuthi **bayibaFakizicelo Abasesigabeni B**. Kuzoba nesigaba sesithathu - **Abafakizicelo Abakusigaba C** - abakhiwe ngabafakizicelo abangakaze babe

namalungelo okudobela ukuhweba kunoma eyiphi imboni yezokudobela ukuhweba eNingizimu Afrika. Isigaba sesithathu sibizwa nangokuthi abafakizicelo "abaqalayo ukungena".

5.4.4 Izicelo ezivela kumuntu ngamunye oshone ngesikhathi senqubo yokuholwa kwezicelo kanye nalapho/noma ngaphambi kwelungelo lokubonisana emsebenzini wokudobela ukuhweba embonini yezokudoba kuthathwa isinqumo sokuhlolwa ngokwendlelakuhlunga emisiwe. Uma umfakizicelo eshona emuva kokugunyazwa kwelungelo yilowo oMele Umkhiphimafa noma u-Master, okuqashwa kwakhe kuyiqinisekiswa wu-Master weNkantolo Enkulu, angase abhekane nempahla kanye nomthwalo wefa likamufi.

5.4.5 Amalungu omndeni kamfakizicelo oshonile ayokwazisa uMnyango ngaleso sikhathi, ngokubhaliwe, emuva kokuba lowo mfakizicelo eseshonile. Lapho kutholakala isaziso somfakizicelo oshonile, Onikwe Igunya, angase ngokwesigaba 82 se-MLRA akhiphe umyalelo wokuba kwenziwe uphenyo ngalolo daba.

5.4.6 Izicelo zizohlolwa wuMnyango ngokwendlelakuhlunga yokungabandakanyi neyokulinganisa.

6. INDLELAKUHLUNGA EQONDENE NOKUSHIYA NGAPHANDLE

Indlelakuhlunga yokushiya ngaphandle elandelayo izosebenza kuzo zonke izicelo zelungelo emkhakheni wokudoba ngamunye.

6.1 Indlelakuhlunga Eqondene Nokufaka Isicelo Ngokungafanele

Onikwe Igunya akanawo amandla okuvumela ukubandakanywa kwezicelo ezifakwe ngokungafanele.

Isicelo sizothathwa ngokuthi sifakwe ngokungafanele futhi sizoshiywa ngaphandle uma -

6.1.1 umfakizicelo ethumela isicelo sakhe noma sabo emuva kosuku olunqunyiwe nangesikhathi sokuthumela isicelo;

6.1.2 umfakizicelo engazikhokhanga izindleko zokufaka isicelo ngokugcwele nangesikhathi;

- 6.1.3 umfakisisicelo othumele isicelo sakhe ngaphandle kokusebenzisa ifomu lokufaka isicelo elimisiwe futhi efaka isicelo sakhe ngendlela ephambene nemiyalelo yoMnyango njengokusebenzisa ifeksi, i-imeyli, noma iposi;
- 6.1.4 umfakisisicelo engasiye umuntu waseNingizimu Afrika;
- 6.1.5 isicelo sifakwa umuntu ongabhalisiwe njengomuntu ngokomthetho noma umfakisisicelo engayiKhokhi Intela;
- 6.1.6 isicelo singathunyelwanga umfakisisicelo noma ummeleli wakhe ogunyaziwe; futhi
- 6.1.7 umfakisisicelo ngamunye engaphansi kweminyaka eyi-18.

6.2 Indlelakuhlunga yezicelo ezinokuningi okungalungile

Isicelo sizothathwa ngokuthi sinokuningi okungalungile futhi sizoshiywa ngaphandle uma -

- 6.2.1 umfakisisicelo noma ummeleli kamfakisisicelo ogunyaziwe engalisayinanga ifomu lesicelo futhi isiginesha yakhe ingaqinisekiswa uMfungisi ozimele futhi sagxivizwa;
- 6.2.2 umfakisisicelo ethumele isicelo esingaphezu kwesisodwa ecela ilungelo embonini yezokudoba owodwa;
- 6.2.3 umfakisisicelo ethumela ulwazi olungasilo iqiniso kanye/noma oluyinkohliso noma imibhalo engasiyo eyeqiniso;
- 6.2.4 umfakisisicelo ehluleka ukudalula ulwazi olubalulekile ngezinhloso zokuhlola isicelo sakhe noma senkampani; futhi
- 6.3 umfakisisicelo noma izisebenzi ezigunyaziwe / abameleli bezama ukuba nomthelela ngokungafanele Onikwe Igunya noma uNgqongqoshe maqondana nokudingekayo ngokwesicelo sakhe (isib. umfakisisicelo uzama ukuxhumana ngqo noNgqongqoshe noma Onikwe Igunya maqondana nesicelo).
Isicelo sizoshiywa ngaphandle uma -

- 6.3.1 umfakisisicelo noma elinye lamalungu akhona nabaninimasheya noma abaqondisi befaka isicelo sokuxoxisana ngesigaba 105A soMthetho Wenqubo Yezobugebengu, uMthetho 51 we-1977, ngokuphulwa kwe-MLRA, imithethonqubo, noma imigomo yezimvume futhi kuphoqeleka ukuba bathole isigwebo sasejele ngaphandle kokunikwa ithuba lokukhokha inhlawulo. Imininingwane yesikhathi sokushiya ngaphandle izobhalwa kuziNqubomgomo Eziqondene nomboni yezokudoba;
- 6.3.2 umfakisisicelo noma amalungu enkampani nabaninimasheya noma abaqondisi belahlwe amacala ngokwe-MLRA noma imithethonqubo yayo noma imigomo yemvume kusukela ngesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba (isib. umfakisisicelo noma elinye lamalungu enkampani nabaninimasheya noma abaqondisi belahlwe ngecala ngokuphula imithetho engaphezu kwemibili futhi benikwe isigwebo esingaphezu kwezi-R5000 noma ukuya ejele ngaphandle kokunikwa ithuba lokukhokha inhlawulo);
- 6.3.3 umfakisisicelo enemphala edliwe uHulumeni ngokuphulwa kwezinhlinzeko ze-MLRA;¹²
- 6.3.4 umfakisisicelo obenelungelo lokudoba noma imvume ekhanseliwe noma ayiphuciwe ngesikhathi esibhalwe kuziNqubomgomo Eziqondene Nomboni yezokudoba. Esimweni lapho ilungelo lokudoba noma imvume ikhanseliwe noma wayiphucwa, isinqumo sikaNgqongqoshe noma Onikwe Igunya asiguquki kuze kube yisikhathi lapho sekucutshungulwe futhi kwathathwa isinqumo sokudluliswa kwesinqumo wuphiko olunegunya olufanele noma kwabuyekeza ngamajaji enkantolo yomthetho;
- 6.3.5 Maqondana nabafake izicelo ngokweSigaba A neSigaba B, isicelo siyothathwa ngokuthi singaba nobungozi ngokwezabelo futhi sishiywe ngaphandle uma sehluleka wukuveza noma wokuphi kokulandelayo:
- (a) Ama-Akhawunti Asebhangwe
 - (b) Izitatimende Zezimali
 - (c) Uhlu lwempahla esetshenziswa yibhizinisi egameni likaMfakisisicelo
 - (d) Umshwalense egameni likaMfakisisicelo
 - (e) Umsebenzi Oqashwe Umfakisisicelo

¹ UPhiko Olunegunya luzonquma ukuthi ingabe umfakisisicelo wayalelwa yinkantolo yomthetho ukuthi kudliwe impahla. Yisemacaleni anomyalelo wenkantolo wokudliwa kwempahla lapho umfakisisicelo ezojeziswa khona ngaphansi kohlelo lokunika amaphuzu.

² Abafakizicelo ababoshiwe noma abavalelwe noma ababenempahla edliwe, baboshwa noma bavalelwa kodwa lapho singekho isinqumo sokutholwa benecala esikhishwe yinkantolo abazukucindezelwa ngokwendlelakuhlunga yokukala neyokunika amaphuzu.

- (f) Izimvume Zokuhwebela Kwamanye Amazwe egameni lenkampani
- (g) Uhlelo Lwebhizinisi [Uhlelo lokudoba] oluqukethe
- (h) uma bengakaze babandakanywe ngqo eNqubweni Yokudoba Nezokwazisa ngezinhlanzi zabo ngesikhathi benelungelo emkhakheni abafaka isicelo kuwo.
- (i) Bengasifakanga isicelo seMvume Yokudoba ngesikhathi benelungelo emkhakheni abafaka isicelo kuwo.
- (j) Bengabuyanga nazinhlanzi ngesikhathi benelungelo emkhakheni abafaka isicelo kuwo.
- (k) Uma bengeke babambe futhi babuye nazinhlanzi

6.3.6 umfakisisicelo kuzothathwa ngokuthi ufika nobungozi bobunikazi bemvume ngokwamaphepha ngokoNikwe Igunya njengoba kuchazwe kuNqubomgomo Yezokudoba Ewujikelele: 2021 ngokulandelayo

- (a) Uma esicelweni kuvela ukuthi umfakisisicelo welungelo lobunikazi ubonisa intshisekelo enkulu yokusebenzisa, yokusebenza kanye/noma nokwazisa ngelungelo lokudoba analo noma azokwabelwa ngalo. Lapho kuthathwa isinqumo sokuthi ingabe umfakisisicelo welungelo lobunikazi unobungozi bobunikazi bemvume ngokwamaphepha, kuzocutshungulwa okulandelayo:
 - (i) Indlelakuziphatha yomfakisisicelo welungelo lobunikazi ngesikhathi Abelwe ilungelo.
 - (ii) Abafakizicelo belungelo lobunikazi abahlulekile ukuthola imisebenzi, ukuvuna ngamalungelo abo okudoba, ukusebenza nokuzuzisa ngezinhlanzi kanye/noma ukwazisa nokudayisa izinhlanzi zabo.
- (b) Onikwe Igunya uzocubungula umfakisisicelo ukuthi "unobungozi bobunikazi bemvume ngokwamaphepha" uma kubonakala esicelweni ukuthi umfakisisicelo welungelo lobunikazi akanazo izinhloso ezicacile zokubambisana kulobu bungozi ngokubamba iqhaza ngokugcwele emkhakheni, ikakhulukazi uma kunobungozi bokuthi umfakisisicelo ungene embonini kodwa wathola inzuzo ethile yezezemali ngaphandle kokuzibandakanya emisebenzini emikhulu ehambisana nokusetshenziswa kwelungelo eligunyaziwe. Ekuthatheni isinqumo sokuthi ingabe umfakisisicelo ubonakala engumuntu onobungozi bobunikazi bemvume ngokwamaphepha, kucutshungulwa impahla kamfakisisicelo nokutholakala kwemali eyingqalabhizinisi kanye nokuhlelwa kwezimali nebhizinisi kanye nokuzibophezela. Onikwe Igunya kumele azame ukunqanda abafakizicelo bobunikazi bemvume ngokwamaphepha ekungeneni embonini yezokudoba ngoba ubunikazi bemvume

ngokwamaphepha bubukela phansi futhi buphazamisa izimpokophelo zenqubo yokwabiwa kwamalungelo okudobela ukuhweba.

- (c) Onikwe Igunya kumele athathe zonke izinyathelo ezifanele ukususa abafakizicelo bobunikazi bemvume ngokwamaphepha okungenzeka ukuthi bagunyazelwe amalungelo okudobela ukuhweba. Onikwe Igunya uzocubungula abafakizicelo bobunikazi bemvume ngokwamaphepha abanikwe amalungelo okudobela ukuhweba kodwa okubonakala amarekhodi antengantengayo noma angekho ahlanganiswe nokungabibikho kotshalomali noma ukuzibandakanya ngokuqondile embonini yezokudoba.
- (d) Onikwe Igunya uzoshiya ngaphandle abafakizicelo "abanobungozi bobunikazi bemvume ngokwamaphepha" abathathwa ngokuthi "bakhohlisa ngobunikazi" kube kuzozuza abanye abantu. Ukukhohlisa ngobunikazi kwenzeka lapho, ukuze kuphazanyiswe impokophelo yenqubomgomo, isicelo sithunyelwa ngegama lelinye ibhizinisi. Lokhu kuvame ukubandakanya ukwethembela kumininingo noma ukuqamba amanga ngokulandelwa komthetho ngokususela ekuvezweni kokungasilo iqiniso, okungabe kwenziwe ngothi ulandele umthetho noma omunye umuntu. Isibonelo yisicelo esifakwe yisikhungo esiphosisa ngokuthi siguqukile ngenhloso yokuthi izinzuzo ezinkulu zidlulele esikhungweni esingaguqukile noma kubantu abangafanelekile. Esinye isibonelo yilapho ibhizinisi noma umuntu wakwelinye izwe ehlangana nomuntu waseNingizimu Afrika ngokungabadaluli umnikazi (abanikazi) besikebhe bangempela, umfakizicelo athe singesakhe noma athe ngesebhizinisi labo lapho efaka isicelo selungelo ngalokho ephazamisa inqubo yokwabiwa kwamalungelo.
- (e) UMnyango uzosebenzisa izinqubo zesigaba 28 ngaphandle komkhawulo ngokwe-MLRA kulabo banikazi bamalungelo abatholakala bengabanikazi bezabelo ngokwamaphepha noma abakhohlisa ngokuba ngabanikazi.
- (f) UMnyango ungase uwathathe amalungelo okudobela ukuhweba anikwe umnikazi welungelo ohluleka ukusebenzisa amalungelo akhe eminyakeni emibili yokuqala emuva kokunikwa amalungelo akhe.

6.3.7 Umfakizicelo uhlulekile ukusebenzisa noma eliphi lelungelo lakhe lokudoba, kuwo umkhakha lowo mkhakha wokudoba isicelo selungelo esiqondene nawo, ngesikhathi selungelo lokudobela ukuhweba alinikwa noma elanikwa ibhizinisi lakhe ku-LTRAMP2005 kanye ne-FRAP 2013³

7. INDLELAKUHLUNGA EQONDENE NOKULINGANISA

Izicelo ezidlula kundlelakuhlunga eqondene nokushiya ngaphandle zizoqhubeka nokuhlolwa futhi zibhekane nendlelakuhlunga eqondene nokukalwa kwamaphuzu noma indlelakuhlunga eqondene nokulinganisa ukuze kunqunywe ukuthi ngabaphi abafakizicelo abaphumelele embonini yezokudoba ngamunye. Indlelakuhlunga eqondene nokukala kanye nokunika amaphuzu luzokhiwa futhi lumiselwe abafakizicelo bezigaba A, B no-C. Ukukala ngokwezindlelakuhlunga kuzobekelwa iphesenti elithile ngokususela ekubalulekeni kokuqinisekisa ukuthi izimpokophelo ezimiswe kuSahluko 4 ziyafezwa. Indlelakuhlunga izokalwa futhi inikwe amaphuzu imi kanje:

7.1 Indlelakuhlunga eqondene nokulinganisa: Isigaba A / abafakizicelo ababengabanikazi bamalungelo phambilini

Abafakizicelo, ngokwezinqubomgomo eziqondene nomkhakha kanye nefomu labo lokufaka isicelo, bazonikwa umphumela okaliwe ngokususela: -

7.1.1 Ekubandakanya imikhakha eminingi

- (a) Isibalo semikhakha yezokudoba umfakizicelo abandakanyeka kuyo kanye nokubandakanyeka kukamfakizicelo emikhakheni yezokudoba ngaphandle kwalo mboni yezokudoba umfakizicelo afaka isicelo maqondana nawo singabhekwa nangezinhloso zokubeka eqhulwini ukwandiswa kokutholakala, uguquko, kanye nokuthuthukisa ezomnotho okubandakanyayo kwemboni yezokudoba yaseNingizimu Afrika.
- (b) Ubungako bezabelo emikhakheni abanelungelo kuyo.

7.1.2 Kusipiliyoni kanye nolwazi lwezokudoba

³ Abafakizicelo Abanganikazi Bamalungelo Baphambilini abahlulekile ukubhala ababuye nakho embonini yezokudoba isikhathi eside (2007 - 2020), bazoshiywa ngaphandle ngokuhluleka ukwenza isidingo esisempoka.

- (a) isibalo seminyaka umfakisisicelo enelungelo lokudobela ukuhweba emkhakheni lapho efaka khona isicelo selungelo;
- (b) isibalo seminyaka umfakisisicelo enelungelo lokudobela ukuhweba kweminye imikhakha kunaleyo mikhakha afaka khona isicelo selungelo; kanye
- (c) isibalo seminyaka umfakisisicelo ebandakanyeka ohlelweni lokuthengisa embonini yezokudoba eNingizimu Afrika (ukudoba, ukusebenza, ukwazisa nokuphathwa kwezezimali).

7.1.3 Utshalomali

- (a) Isilinganiso esifanele sokudoba okukhokhelwa esikhathini esingaphezu konyaka kanye nemithwalo yezokudoba ehambisana nayo kanye nempahla ebhalisiwe ngaphansi kwegama lomfakisisicelo. Impahla ekhokhelwa esikhathini esingaphezu konyaka kanye nemikhiqizo esetshenziswa ibhizinisi ichazwa njengekhokhelwa isikhathi esingaphezu konyaka - akulindelekile ukuthi itholakale noma ikhokhelwe onyakeni owodwa. Impahla ekhokhelwa isikhathi esingaphezu konyaka ibandakanya yize kungacini lapho izakhiwo, indawo yokusebenzela nempahla yokusebenza (okubandakanya isikebhe), izakhiwo zotshalomali, impahla engabambeki ngesandla kanye notshalomali olubalwa kusetshenziswa indlela yezokulinganisa.
- (b) Isilinganiso esifanele sokudoba okukhokhelwa onyakeni owodwa kanye nemithwalo yezokudoba ehambisana nayo kanye nempahla ebhalisiwe ngaphansi kwegama lomfakisisicelo. Impahla ekhokhelwa onyakeni owodwa ingeyesikhathi esifushane futhi isebenza njengengxenye yohlelo lokusebenza lwebhizinisi. Kuthathwa ngokuthi yamukelwe noma ikhokhelwe ngokheshi onyakeni owodwa. Impahla ekhokhelwa onyakeni owodwa ibandakanya yize ingacini ngama-inventories, uhwebo kanye nokwamukelwayo, ukheshi kanye nokulingana nokheshi.

7.1.4 Ukwethembela

- (a) Abafakizicelo, kuncike kufomu lomfakisisicelo, bazonikwa umphumela wokukala ngokususela -
- (i) kuphesenti (%) lengeniso elisuselwa emkhakheni/emikhakheni yezokudoba ngaphakathi eNingizimu Afrika; kanye

- (ii) nephesenti (%) lengeniso elisuselwa emkhakheni/emikhakheni yezokudoba ngaphakathi eNingizimu Afrika.

7.1.5 Ukulandelwa kwezimiso

- (a) Abafakizicelo, kuncike kufomu lomfakizicelo, bazonikwa umphumela wokukala ngokususela ekutheni -
 - (i) Ukuphula izimiso okuncane: - umfakizicelo ulahlwe ngecala ngaphansi kwe-MLRA, noma imithethonqubo noma imigomo yemvume ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
 - (ii) Ukuphula izimiso okuncane: - umfakizicelo okhokhe imali yokuvuma icala lokuphula i-MLRA, noma imithethonqubo noma imigomo yemvume kuphela ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba. Lezi zinhlobo zokuphulwa kwemiyalelo zizodala ukuphucwa amaphuzu okuncane ngesikhathi sesigaba sokuqhathanisela ukulinganisa.
 - (iii) Ukuphula izimiso okuncane: - umfakizicelo obenelungelo lokudoba noma imvume emisiwe noma encishisiwe ngokwesikhathi sokusebenza njengoba kuchazwe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
 - (iv) Ukuphula izimiso okukhulu: - umfakizicelo ungene esivumelwaneni sokuvuma icala ngaphansi koMthetho Wenqubo Yezobugebengu 51 yowezi-1977, ngecala lokuphula i-MLRA, noma imithethonqubo noma imigomo yemvume ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba. Lezi zinhlobo zokuphulwa kwezimiso zizodala ukuphucwa amaphuzu okukhulu ngesikhathi sesigaba sokuqhathanisela ukulinganisa lapho kunokukodwa okungalungile. Uma umfakizicelo ephinda ephula imiyalelo ye-MLRA, umfakizicelo uyoshiywa ngaphandle.
 - (v) Ukuphulwa kwezimiso okukhulu: - isikebhe somfakizicelo, imoto, indawo noma enye impahla kamfakizicelo idliwe ngaphansi kwe-MLRA noma idliwe ngaphansi koMthetho Wokunqanda Ubugebengu Obuhleliwe 121 we-1998 ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba. Lezi zinhlobo zokuphulwa kwezimiso zizodala ukuphucwa amaphuzu okukhulu ngesikhathi sesigaba sokuqhathanisela ukulinganisa lapho kunokukodwa okungalungile. Uma umfakizicelo ephinda ephula imiyalelo ye-MLRA, umfakizicelo uyoshiywa ngaphandle.

(b) Abafakizicelo abanamacala aqhubekayo bazohlolwa futhi bahlonzwe ngendlela efanayo nabo bonke abanye abafakizicelo. Uma kwenzeka laba bafakizicelo bephumelela ilungelo lizogunyazwa kodwa ligodlwe kuze kuphele lelo cala. Uma umfakizicelo eliwinile icala, umfakizicelo uzonikwa imvume yokusebenzisa ilungelo lakhe. Uma engaliwini icala, ilungelo lizodluliselwa ngokwezabelo kubo bonke abafakizicelo abaphumelele abasesigabeni esifanayo.

7.1.6 Ukuthola isikebhe esifanele

- (a) Abafakizicelo, kuncike kufomu lomfakizicelo kanye nenqubomgomo eqondene nomkhakha, bazonikwa umphumela wokukala ngokususela ekutheni -
 - (i) umfakizicelo ungumnikazi noma ukwazi ukuthola isikebhe esifanele, futhi
 - (ii) izikebhe eziqokwe umfakizicelo zihambisana nezimiso zokuphepha olwandle kanye neminingwane yezikebhe ngokoMthetho Wemikhumbi Yabahwebi 57 we-1951, uMthetho Wezokuphathwa Kwezokuphepha Olwandle waseNingizimu Afrika (i-SAMSA") 5 we-1998, uMthetho Wezithuthi Zasolwandle 2 we-1981 kanye neMithethonqubo yayo.
- (b) Isikebhe esifanele sizochazwa kunqubomgomo eqondene nomboni yezokudoba efanele, kodwa ukuze isikebhe sisebenze embonini yezokudoba eNingizimu Afrika, isikebhe kumele:
 - (i) sibe nefulegi laseNingizimu Afrika (ngaphandle kwalapho kubhalwe okuhlukile kunqubomgomo eqondene nomboni yezokudoba);
 - (ii) sifakwe uhlelo lokuqapha isikebhe olugunyazwe umnyango nolusebenzayo (i-VMS) (ngaphandle kwalapho sikhululwe uMnyango);
 - (iii) sibhaliswe yiNhlango Yezokuphepha Kwemikhumbi eNingizimu Afrika (i-SAMSA) ukuthi sifanelekile ukusetshenziselwa ukudoba; futhi
 - (iv) singabi sohlwini lwezikebhe ezinegama elibi eziNhlangozweni Zokuphathwa Kwezokudoba Esifundeni (i-RFMO) kanye/noma Ezivumelwaneni.

7.1.7 Indlela okudotshwa ngayo

- (a) Abafakizicelo, kuncike kufomu lomfakizicelo, bazonikwa umphumela wokukala ngokususela -
 - (i) kusibalo sezikhathi zokudoba umfakizicelo azisebenzisa ngesikhathi enelungelo lokwenza imisebenzi yokudobela ukuhweba embonini yezokudoba lapho umfakizicelo efake isicelo sokwabelwa kabusha ilungelo lokudoba.

- (ii) kubungako bezinhlanzi ezabanjwa umfakisicelo embonini yezokudoba afake isicelo kuso umfakisicelo.
- (iii) ekuvuneni ngokweqile esabelweni sakhe ngokungaphezu kwephesenti elithile elinqunywe kuNqubomgomo Eqondene Nomboni yezokudoba kunoma esiphi isikhathi sokudoba kanye nesikhathi sokugcina sokudoba ngaphambi kokwabelwa amalungelo okudobela ukuhweba.

7.1.8 Uguquko

- (a) Enqubweni yokwabiwa kwamalungelo, ubuhlanga, ubulili kanye neminyaka yabafakizicelo, esimweni somuntu ngokomthetho, kuzobhekwa ubuhlanga, ubulili kanye neminyaka yabaninimasheya noma amalungu, abaphathi, abahlinzeki kanye nabasebenzi. Phezu kwalokho, kuzobhekwa nemisebenzi yokwelulela isandla emphakathini yenkampani.
- (b) Kuzohlolwa futhi kucutshungulwe ukuzuza ngokobunikazi kwabafakizicelo ababephucwe amathuba ngokomlando, ngokubanika amalungelo okuvota angenamkhawulo kanye nentshisekelo kwezomnotho ehambisana nobunikazi bempahla. Ekunqumeni ngokuthi amalungelo okuvota nentshisekelo yezomnotho "akunamkhawulo", Onikwe Igunya angase abheke uMgomo 100 woMthetho we-BBBEE. UMgomo 100 ungokuKalwa Kwesakhi Sobunikazi Ohlelweni Lokufukulwa Kwabantu Abamnyama Kwezomnotho Olubanzi.
- (c) Abafakizicelo abaphumelele bazonikwa amaphuzu ngokufukula abasebenzi babo ngokohlelo lobunikazi babasebenzi, kuncike ekutheni abafakizicelo bangabonisa ukuthi abasebenzi babo bathola inzuzo yangempela (enjengenkohelo yamasheya ebhizinisi kanye nokuphatha ngokuhlanganyela) ohlelweni futhi lezo zinzuzo zingaqinisekiswa. Kuzobhekwa nesibalo sabantu ababephucwe amathuba phambilini ngokomlando kubaphathi abakhulu nabayizikhulu eziphezulu ebhizinisini lokudoba lomfakisicelo. Abaphathi abakhulu noma abayizikhulu eziphezulu bavame ukuba yilabo abantu abanomsebenzi wokuhola imisebenzi yezamaqhingasu okusebenza enkampanini futhi abaphethwe ngqo wumqondisi wezokuphathwa kwebhizinisi noma iBhodi.
- (d) Uma kuhlolwa futhi kunikwa izicelo amaphuzu, nalapho kwabiwa izingxenye ze-TAC kubafakizicelo abaphumelele, Onikwe Igunya angase akhethe abafakizicelo ngokususela kwindlelakuhlunga yoguquko. Uma kukhishwa umphumela wendlelakuhlunga yoguquko, noma kwabiwa izingxenye ze-TAC, Onikwe Igunya angase abheke: izibalo zabantu noma olunye ulwazi oluhlinzekwe yi-Statistics South Africa maqondana nokwakheka kwesibalo sabantu baseNingizimu Afrika, kanye nephesenti lalabo bantu elakheke ngokwamaqoqo

abantu abahlukene ngokwendalo; isidingo sokuqinisekisa ukuhlonishwa nokubamba iqhaza ngendlela eqondakalayo nenobulungiswa embonini yezokudoba Kwabantu Ababephucwe Amathuba Phambilini (ama-HDI) kanye nemigomo yokusebenza okuhle ngaphansi koMthetho Ochitshiyelwe Wokufukulwa Kwabantu Abamnyama Kwezomnotho Okubanzi.

- (e) Abafakizicelo, ngokwezinqubomgomo eziqondene nomkhakha kanye nefomu labo lokufaka isicelo, bazonikwa umphumela wokukala ngokususela: -
 - (i) iphrofayela kamfakizicelo maqondana nobuhlanga, ubulili kanye neminyaka yabantu;
 - (ii) iphrofayela yenkampani yabantu abamnyama abangabanikazi ;
 - (iii) iphrofayela yokufukulwa umfakizicelo kanye nekhodi labasebenzi maqondana nabantu abamnyama, abesifazane, abasha, abantu abaphila nokukhubazeka kanye neminyaka yokusebenza;
 - (iv) iphesenti Lamaholo ama-HDI Emholweni Uwonke;
 - (v) Inkokhelo yamasheya ekhokhelwe abaninimasheya noma amalungu kanye nesilinganiso sokudluliselwa kwemali kulabo abazuzayo, okubandakanya ukuhlukanisa ngokobuhlanga nobulili kwalabo abazuzayo;
 - (vi) Inkokhelo yamasheya ekhokhelwe abaninimasheya abakuThrasti Yabasebenzi kanye nesilinganiso sokudluliselwa kwemali kulabo abazuzayo; okubandakanya ukuhlukanisa ngokobuhlanga nobulili kwalabo abazuzayo;
 - (vii) iphesenti lenzuzo ephelele yabafakizicelo elisetshenziselwa ukwelulela isandla emphakathini;
 - (viii) ukuthi ingabe umfakizicelo uthenga impahla/imisebenzi enkampanini (ezinkampanini) zabantu abamnyama;
 - (ix) ukuthi ingabe umfakizicelo ungumqashi njengoba kuchazwe kuSigaba 1 soMthetho Wezokulinganisa Kwezemisebenzi 55 we-1998;
 - (x) ukuthi ingabe umfakizicelo uwugcinile na uMthetho Wezokulinganisa Kwezemisebenzi 55 we-1998;
 - (xi) ukuthi ingabe umfakizicelo ubhale uhlelo lwezokulinganisa emsebenzini;
 - (xii) ukuthi ingabe umfakizicelo uwugcinile na uMthetho Wokuthuthukiswa Kwamakhono 97 we-1998;
 - (xiii) ukuthi ingabe umfakizicelo ukhokhe izinkokhelo ngokoMthetho Wezinkokhelo Zokuthuthukiswa Kwamakhono 9 we-1999;
 - (xiv) ukuthi ingabe umfakizicelo uqoke umlawuli wezokuthuthukiswa kwamakhono;

- (xv) ukuthi ingabe umfakisicelo ubhale futhi waqalisa uhlelo lwezamakhono lwasemsebenzini;
- (xvi) ukuthi ingabe umfakisicelo ubamba iqhaza ezinhlelweni zokufundiswa umsebenzi usemsebenzini;
- (xvii) ukuthi ingabe umfakisicelo uzibandakanye emisebenzini yokuthuthukisa ibhizinisi ukuze kubhekanwe nokwandisa ubunikazi babantu abamnyama, ukuphatha kanye namakhono emabhizinisini amasha, okubandakanya izinhlelo zotshalomali kanye nokuthola uxhasomali;
- (xviii) inani langempela nephesenti elisetshenziselwe impahla nemisebenzi ngaphakathi nangaphandle kwaseNingizimu Afrika;
- (xix) ukuthi ingabe umfakisicelo uqalise imisebenzi eyinzuzo emkhakheni othile/wezokudoba asebenza kuwo;
- (xx) ukukhuthaza ukuthuthukiswa komnotho wasendaweni maqondana namachweba okubuywe nezinhlanzi futhi zasetshenzwa kuwo; kanye
- (xxi) nokukhuthaza ukuthuthukiswa komnotho wasendaweni ngokuzibophezela maqondana namachweba okubuywe nezinhlanzi futhi zasetshenzwa kuwo.

7.1.9 Ukudalwa kwamathuba omsebenzi

- (a) Inhloso ebalulekile yokwabiwa Kwamalungelo okudobela ukuhweba wukudala isimo esilungele ukudalwa kwamathuba omsebenzi, ikakhulukazi, ekudalweni kwamathuba eminye imisebenzi okusetshenzwa kuyo ngokugcwele ("unyaka wonke") kanye nezingaqophelo elingcono embonini yezokudoba.
- (b) Kuzobhekwa imisebenzi edalwe abafakizicelo abanamalungelo okudobela ukuhweba kanye nokwanda kwemisebenzi ngenxa yokwabiwa kwamalungelo okudobela ukuhweba esikhathini eside.
- (c) Kukhethwa ukudalwa kwamathuba emisebenzi yokusebenza ngokugcwele (unyaka wonke) kunemisebenzi yezikhathi ezithile onyakeni futhi ukuqashwa ngezikhathi ezithile onyakeni kukhethwa uma kuzoba ngaphansi kwenkontileka (isikhashana).
- (d) Ngakho-ke, abafakizicelo, kuncike kufomu lomfakisicelo, bazonikwa umphumela wokukala ngokususela -

- (i) isibalo sabasebenzi abaqashwe ngokugcwele (unyaka wonke), ngezikhathi ezithile onyakeni nangezinkontileka (isikhashana) maqondana nonyaka wezimali njengoba kuchazwe kuzinqubomgomo eziqondene nomboni yezokudoba;
- (ii) ukuthi ingabe umfakisicelo uyayilandela na imigomo yokusebenza ezikebheni zokudoba nasezimbomini, yokuphepha olwandle, imigomo yezempilo nokuphepha ngokoMthetho Wezempilo Nezokuphepha Emsebenzini 85 we-1993 kanye noMthetho Wezinxephezelo Ngokulimala Nokuthola Izifo Emsebenzini 130 we-1993; kanye
- (iii) nomholo okhokhelwa abasebenzi.

7.1.10 Amaphuzu okuhlunga

- (a) Uma kunabafakizicelo abanemiphumela elinganayo, Onikwe Igunya angasebenzisa indlelakuhlunga yokwahlukanisa ukuze kukhethwe phakathi kwabafakizicelo abanemiphumela elinganayo.
- (b) amaphuzu okuhlunga azoba ngahlelekile, ngalinganisayo nangachemile futhi angaphazamisa izindlelakuhlunga ezikalwe ngokuhlukile zokunganikwa maphuzu noma enikwe amaphuzu ngendlela ehlukile ukuze kusebenze izimpokophelo nemigomo ye-MLRA.

7.2 Indlelakuhlunga yokulinganisa: Abafakizicelo besigaba B

Abafakizicelo, ngokwezinqubomgomo eziqondene nomboni yezokudoba kanye nefomu labo lokufaka isicelo, bazonikwa umphumela okaliwe ngokususela: -

7.2.1 Ekubandakanya imikhakha eminingi

- (a) Isibalo semikhakha yezokudoba umfakisicelo abandakanyeka kuyo kanye nokubandakanyeka kukamfakisicelo emikhakheni yezokudoba ngaphandle kwalo mboni yezokudoba umfakisicelo afaka isicelo maqondana nawo singabhekwa nangezinhloso zokubeka eqhulwini ukwandiswa kokutholakala, uguquko, kanye nokuthuthukisa ezomnotho okubandakanyayo kwemboni yezokudoba yaseNingizimu Afrika.
- (b) Ubungako bezabelo emikhakheni abanelungelo kuyo

7.2.2 Kusipiliyoni kanye nolwazi lwezokudoba

- (a) isibalo seminyaka umfakisicelo enelungelo lokudobela ukuhweba kuleyo mikhakha.

- (b) isibalo seminyaka umfakisisicelo ebandakanyeka ohlelweni lokuthengisa embonini yezokudoba eNingizimu Afrika (ukudoba, ukusebenza, ukwazisa nokuphathwa kwezezimali).

7.2.3 Utshalomali

- (a) Isilinganiso esifanele sokudoba okukhokhelwa esikhathini esingaphezu konyaka kanye nemithwalo yezokudoba ehambisana nayo kanye nempahla ebhalisiwe ngaphansi kwegama lomfakisisicelo. Impahla ekhokhelwa esikhathini esingaphezu konyaka kanye nemikhiqizo esetshenziswa ibhizinisi ichazwa njengekhokhelwa isikhathi esingaphezu konyaka - akulindlekile ukuthi itholakale noma ikhokhelwe onyakeni owodwa. Impahla ekhokhelwa isikhathi esingaphezu konyaka ibandakanya yize kungacini lapho izakhiwo, indawo yokusebenzela nempahla yokusebenza (okubandakanya isikebhe), izakhiwo zotshalomali, impahla engabambeki ngesandla kanye notshalomali olubalwa kusetshenziswa indlela yezokulinganisa.
- (b) Isilinganiso esifanele sokudoba okukhokhelwa onyakeni owodwa kanye nemithwalo yezokudoba ehambisana nayo kanye nempahla ebhalisiwe ngaphansi kwegama lomfakisisicelo. Impahla ekhokhelwa onyakeni owodwa ingeyesikhathi esifushane futhi isebenza njengengxenye yohlelo lokusebenza lwebhizinisi. Kuthathwa ngokuthi yamukelwe noma ikhokhelwe ngokheshi onyakeni owodwa. Impahla ekhokhelwa onyakeni owodwa ibandakanya yize ingacini ngama-inventories, uhwebo kanye nokwamukelwayo, ukheshi kanye nokulingana nokheshi.

7.2.4 Ukwethembela

Abafakizicelo, kuncike kufomu lomfakisisicelo, bazonikwa umphumela wokukala ngokususela kuphesenti (%) lengeniso etholakale ivela:

- (a) kumkhakha (kumikhakha) wezokudoba umfakisisicelo angumnikazi welungelo lokudobela ukuhweba kuwo.
- (b) kwezinye izindawo embonini yezokudoba ngaphandle komkhakha umfakisisicelo anelungelo kuwo.
- (c) umkhakha (imikhakha) wezokudoba ongaphandle kwaseNingizimu Afrika.

7.2.5 Ukulandelwa kwezimiso

Abafakizicelo, kuncike kufomu lomfakizicelo, bazonikwa umphumela wokukala ngokususela ekutheni -

- (a) umfakizicelo ulahlwe ngecala ngaphansi kwe-MLRA, noma imithethonqubo noma imigomo yemvume ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
- (b) umfakizicelo ungene esivumelwaneni sokuvuma icala ngaphansi koMthetho Wenqubo Yezobugebengu 51 yowezi-1977, ngecala lokuphula i-MLRA, noma imithethonqubo noma imigomo yemvume ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
- (c) umfakizicelo okhokhe imali yokuvuma icala lokuphula i-MLRA, imithethonqubo noma imigomo yemvume ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
- (d) isikebhe somfakizicelo, imoto, indawo noma enye impahla kamfakizicelo idliwe ngaphansi kwe-MLRA noma idliwe ngaphansi koMthetho Wokunqanda Ubugebengu Obuhleliwe 121 we-1998 ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.

Abafakizicelo abanamacala aqhubekayo bazohlolwa futhi bahlonzwe ngendlela efanayo nabo bonke abanye abafakizicelo. Uma kwenzeka laba bafakizicelo bephumelela ilungelo lizogunyazwa kodwa ligodlwe kuze kuphele lelo cala. Uma umfakizicelo eliwinile icala, umfakizicelo uzonikwa imvume yokusebenzisa ilungelo lakhe. Uma engaliwini icala, ilungelo lizodluliselwa ngokwezabelo kubo bonke abafakizicelo abaphumelele abasesigabeni esifanayo.

7.2.6 Ukuthola isikebhe esifanele

- (a) Abafakizicelo, kuncike kufomu lomfakizicelo, bazonikwa umphumela wokukala ngokususela ekutheni -
 - (i) umfakizicelo ungumnikazi noma ukwazi ukuthola isikebhe esifanele.
 - (ii) izikebhe eziqokwe umfakizicelo zihambisana nezimiso zokuphepha olwandle kanye neminingwane yezikebhe ngokoMthetho Wemikhumbi Yabahwebi 57 we-1951, uMthetho Wezokuphathwa Kwezokuphepha Olwandle waseNingizimu Afrika (i-SAMSA") 5 we-1998, uMthetho Wezithuthi Zasolwandle 2 we-1981 kanye neMithethonqubo yayo.
- (b) Isikebhe esifanele sizochazwa kunqubomgomo eqondene nomboni yezokudoba efanele, kodwa ukuze isikebhe sisebenze embonini yezokudoba eNingizimu Afrika, isikebhe kumele:

- (i) sibe nefulegi laseNingizimu Afrika (ngaphandle kwalapho kubhalwe okuhlukile kunqubomgomo eqondene nomboni yezokudoba);
- (ii) sifakwe uhlelo lokuqapha isikebhe olugunyazwe umnyango nolusebenzayo (i-VMS) (ngaphandle kwalapho sikhululwe uMnyango);
- (iii) sibhaliswe yiNhlango Yezokuphepha Kwemikhumbi eNingizimu Afrika (i-SAMSA) ukuthi sifanelekile ukusetshenziselwa ukudoba; futhi
- (iv) singabi sohlwini lezikebhe ezinegama elibi kunoma eyiphi i-RFMO kanye/noma Ezivumelwaneni.

7.2.7 Indlela okudotshwa ngayo

- (a) Abafakizicelo, kuncike kufomu lomfakisicelo, bazonikwa umphumela wokukala ngokususela -
- (i) kusibalo sezikhathi zokudoba umfakisicelo azisebenzisa ngesikhathi enelungelo lokwenza imisebenzi yokudobela ukuhweba embonini yezokudoba lapho umfakisicelo efake isicelo sokwabelwa kabusha ilungelo lokudoba.

7.2.8 Uguquko

- (a) Inqubomgomo Ewujikelele yowezi-2021 ibheke ukuqhubeka nokuguqula nokuthuthukisa amazinga uguquko oselufeziwe embonini yezokudoba. Wuguquko olukuzingaqophelo eliphambili kuphela oluzohlolishwa, okusho ukuthi, uguquko oludala izinzuzo zangempela kulabo ababephucwe amathuba phambilini njengoba kuchazwe kuMthetho Wesikhwama Sokufukulwa Kuzwelonke 105 we-1998 (i-NEFA). Ngokwe-NEFA "abantu ababephucwe amathuba ngokomlando" kushiwo labo bantu noma uhlobo lwabantu okwathi, ngaphambi kokuba umbuso wentandoyeningi owaziwa ngokuqalisa nokuphoqelela uMthetho woMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (uMthetho No. 108 we-1996), babephucwe amathuba becwaswa ngokungafanele ngenxa yobuhlanga futhi kubandakanywa nomuntu ngokomthetho noma izinhlangano zabo nezilawulwa yilabo bantu.
- (b) Abantu babephucwe amathuba ngokomlando embonini yezokudoba ngenxa yobuhlanga nobulili, ikakhulukazi maqondana Namalungelo okudobela ukuhweba. Ngakho kubalulekile ukukhuthaza ukubamba iqhaza kwalabo bantu ababephucwe amathuba ngokomlando kuwo wonke amagatsha asezimbonini zokudoba. Kubalulekile nokubhekana nokungalingani okungokomlando futhi kufinyelelwe ekulinganiseni embonini yezokudoba.

- (c) Enqubweni yokwabiwa kwamalungelo, ubuhlanga, ubulili kanye neminyaka yabafakizicelo, esimweni somuntu ngokomthetho, kuzobhekwa ubuhlanga, ubulili kanye neminyaka yabaninimasheya noma amalungu, abaphathi, abahlinzeki kanye nabasebenzi. Phezu kwalokho, kuzobhekwa nemisebenzi yokwelulela isandla emphakathini yenkampani.
- (d) Kuzohlolwa futhi kucutshungulwe ukuzuza ngokobunikazi kwabafakizicelo ababephucwe amathuba ngokomlando, ngokubanika amalungelo okuvota angenamkhawulo kanye nentshisekelo kwezomnotho ehambisana nobunikazi bempahla. Ekunqumeni ngokuthi amalungelo okuvota nentshisekelo yezomnotho "akunamkhawulo", Onikwe Igunya angase abheke uMgomo 100 woMthetho we-BBBEE. UMgomo 100 ungokuKalwa Kwesakhi Sobunikazi Ohlelweni Lokufukulwa Kwabantu Abamnyama Kwezomnotho Olubanzi.
- (e) Abafakizicelo abaphumelele bazonikwa amaphuzu ngokufukula abasebenzi babo ngokohlelo lobunikazi babasebenzi, uma abafakizicelo bangabonisa ukuthi abasebenzi babo bathola inzuzo yangempela (enjengenkokhelo yamasheya ebhizinisi kanye nokuphatha ngokuhlanganyela) ohlelweni futhi lezo zinzuzo zingaqinisekiswa. Kuzobhekwa nesibalo sabantu ababephucwe amathuba phambilini ngokomlando kubaphathi abakhulu nabayizikhulu eziphezulu ebhizinisini lokudoba lomfakisicelo. Abaphathi abakhulu noma abayizikhulu eziphezulu bavame ukuba yilabo abantu abanomsebenzi wokuhola imisebenzi yezamaqhingasu okusebenza enkampanini futhi abaphethwe ngqo wumqondisi wezokuphathwa kwebhizinisi noma iBhodi.
- (f) Uma kuhlolwa futhi kunikwa izicelo amaphuzu, nalapho kwabiwa izingxenye ze-TAC kubafakizicelo abaphumelele, Onikwe Igunya angase akhethe abafakizicelo ngokususela kwindlelakuhlunga yoguquko. Uma kukhishwa umphumela wendlelakuhlunga yoguquko, noma kwabiwa izingxenye ze-TAC, Onikwe Igunya angase abheke: izibalo zabantu noma olunye ulwazi oluhlinzekwe yi-Statistics South Africa maqondana nokwakheka kwesibalo sabantu baseNingizimu Afrika, kanye nephesenti lalabo bantu elakheke ngokwamaqoqo abantu abahlukene ngokwendalo; isidingo sokuqinisekisa ukuhlonishwa nokubamba iqhaza ngendlela eqondakalayo embonini yezokudoba Kwabantu Ababephucwe Amathuba Phambilini (ama-HDI) kanye nemigomo yokusebenza okuhle ngaphansi koMthetho Ochitshiyelwe Wokufukulwa Kwabantu Abamnyama Kwezomnotho Okubanzi.
- (g) Abafakizicelo, kuncike kufomu lomfakisicelo, bazonikwa umphumela wokukala ngokususela -
- (i) iphrofayela kamfakisicelo maqondana nobuhlanga, ubulili kanye neminyaka yabantu.

- (ii) iphrofayela yenkampani yabantu abamnyama abangabanikazi.
- (iii) iphrofayela yokufukulwa umfakisicelo kanye nekhodi labasebenzi maqondana nabantu abamnyama, abesifazane, abasha, abantu abaphila nokukhubazeka kanye neminyaka yokusebenza.
- (iv) iphesenti Lamaholo ama-HDI Emholweni Uwonke.
- (v) Inkokhelo yamasheya ekhokhelwe abaninimasheya noma amalungu kanye nesilinganiso sokudluliselwa kwemali kulabo abazuzayo, okubandakanya ukuhlukanisa ngokobuhlanga nobulili kwalabo abazuzayo.
- (vi) Inkokhelo yamasheya ekhokhelwe abaninimasheya abakuThrasti Yabasebenzi kanye nesilinganiso sokudluliselwa kwemali kulabo abazuzayo, okubandakanya ukuhlukanisa ngokobuhlanga nobulili kwalabo abazuzayo.
- (vii) iphesenti lenzuzo ephelele yabafakizicelo elisetshenziselwa ukwelulela isandla emphakathini.
- (viii) ukuthi ingabe umfakisicelo uthenga impahla/imisebenzi enkampanini (ezinkampanini) zabantu abamnyama.
- (ix) ukuthi ingabe umfakisicelo ungumqashi njengoba kuchazwe kuSigaba 1 soMthetho Wezokulinganisa Kwezemisebenzi 55 we-1998.
- (x) ukuthi ingabe umfakisicelo uwugcinile na uMthetho Wezokulinganisa Kwezemisebenzi 55 we-1998.
- (xi) ukuthi ingabe umfakisicelo unalo na uhlelo lwezokulinganisa emsebenzini.
- (xii) ukuthi ingabe umfakisicelo uwugcinile uMthetho Wokuthuthukiswa Kwamakhono 97 we-1998.
- (xiii) ukuthi ingabe umfakisicelo ukhokhe izinkokhelo ngokoMthetho Wezinkokhelo Zokuthuthukiswa Kwamakhono 9 we-1999.
- (xiv) ukuthi ingabe umfakisicelo uqoke umlawuli wezokuthuthukiswa kwamakhono.
- (xv) ukuthi ingabe umfakisicelo unalo na uhlelo lwezamakhono lwasemsebenzini.
- (xvi) ukuthi ingabe umfakisicelo ubamba iqhaza ezinhlelweni zokufundiswa umsebenzi usemsebenzini.
- (xvii) ukuthi ingabe umfakisicelo uzibandakanya emisebenzini yokuthuthukisa ibhizinisi ukuze kubhekanwe nokwandisa ubunikazi babantu abamnyama, ukuphatha kanye namakhono emabhizinisini amasha, okubandakanya izinhlelo zotshalomali kanye nokuthola uxhasomali.

- (xviii) inani langempela nephesenti elisetshenziselwe impahla nemisebenzi ngaphakathi nangaphandle kwaseNingizimu Afrika.
- (xix) ukuthi ingabe umfakisiselo uqalise imisebenzi eyinzuzo emkhakheni othile/wezokudoba asebenza kuwo.
- (xx) ukukhuthaza ukuthuthukiswa komnotho wasendaweni maqondana namachweba okubuywe nezinhlanzi futhi zasetshenzwa kuwo.
- (xxi) ukukhuthaza ukuthuthukiswa komnotho wasendaweni ngokuzibophezela maqondana namachweba okubuywe nezinhlanzi futhi zasetshenzwa kuwo.

7.2.9 Ukudalwa kwamathuba omsebenzi

- (a) Inhloso ebalulekile yokwabiwa Kwamalungelo okudobela ukuhweba wukudala isimo esilungele ukudalwa kwamathuba omsebenzi, ikakhulukazi, ekudalweni kwamathuba eminye imisebenzi okusetshenzwa kuyo ngokugcwele kanye nezingaqophelo elingcono embonini yezokudoba.
- (b) Kuzobhekwa imisebenzi edalwe abafakizicelo abanamalungelo okudobela ukuhweba kanye nokwanda kwemisebenzi ngenxa yokwabiwa kwamalungelo okudobela ukuhweba esikhathini eside.
- (c) Kukhethwa ukudalwa kwamathuba emisebenzi yokusebenza ngokugcwele kunemisebenzi yezikhathi ezithile onyakeni futhi ukuqashwa ngezikhathi ezithile onyakeni kukhethwa uma kuzoba ngaphansi kwenkontileka.
- (d) Ngakho-ke, abafakizicelo, kuncike kufomu lomfakisiselo, bazonikwa umphumela wokukala ngokususela -
 - (i) kusibalo sabasebenzi abasebenza ngokugcwele maqondana nonyaka wezimali ilungelo elikhishwe maqondana nawo.
 - (ii) ekutheni ingabe umfakisiselo uyayilandela na imigomo yokusebenza ezikebheni zokudoba nasezimbonini, yokuphepha olwandle, imigomo yezempilo nokuphepha ngokoMthetho Wezempilo Nezokuphepha Emsebenzini 85 we-1993 kanye noMthetho Wezinxephezelo Ngokulimala Nokuthola Izifo Emsebenzini 130 we-1993.

7.2.10 Amaphuzu okuhlunga

- (a) Uma kunabafakizicelo abanemiphumela elinganayo, Onikwe Igunya angasebenzisa indlelakuhlunga yokwahlukanisa ukuze kukhethwe phakathi kwabafakizicelo abanemiphumela elinganayo.
- (b) amaphuzu okuhlunga azoba ngahlelekile, ngalinganisayo nangachemile futhi angaphazamisa izindlelakuhlunga ezikalwe ngokuhlukile zokunganikwa maphuzu noma enikwe amaphuzu ngendlela ehlukile ukuze kusebenze izimpokophelo nemigomo ye-MLRA.

7.3 Indlelakuhlunga yokulinganisa: Izicelo zeSigaba C / zoqalayo ukungena

Abafakizicelo, ngokwezinqubomgomo eziqondene nomkhakha kanye nefomu likamfakizicelo, bazonikwa umphumela okaliwe ngokususela: -

7.3.1 Kusipiliyoni kanye nolwazi lwezokudoba

Kusibalo seminyaka abafakizicelo abayisebenzile noma ababandakanyeke ngayo emisebenzini eqondene nokudoba (isib. ukudoba, ukuba yilungu labasesikebheni, umsebenzi wasefemini, ezokwazisa noma ukudayisa izinhlanzi njll.) futhi maqondana nezinkampani, isibalo seminyaka abaninimasheya abayisebenzile embonini yezokudoba.

7.3.2 Utshalomali

- (a) Isilinganiso esifanele sokudoba okukhokhelwa esikhathini esingaphezu konyaka kanye nemithwalo yezokudoba ehambisana nayo kanye nempahla ebhalisiwe ngaphansi kwegama lomfakizicelo. Impahla ekhokhelwa esikhathini esingaphezu konyaka kanye nemikhiqizo esetshenziswa ibhizinisi ichazwa njengekhokhelwa isikhathi esingaphezu konyaka - akulindelekile ukuthi itholakale noma ikhokhelwe onyakeni owodwa. Impahla ekhokhelwa isikhathi esingaphezu konyaka ibandakanya yize kungacini lapho izakhiwo, indawo yokusebenzela nempahla yokusebenza (okubandakanya isikebhe), izakhiwo zotshalomali, impahla engabambeki ngesandla kanye notshalomali olubalwa kusetshenziswa indlela yezokulinganisa.
- (b) Isilinganiso esifanele sokudoba okukhokhelwa onyakeni owodwa kanye nemithwalo yezokudoba ehambisana nayo kanye nempahla ebhalisiwe ngaphansi kwegama

lomfakisicelo. Impahla ekhokhelwa onyakeni owodwa ingeyesikhathi esifushane futhi isebenza njengengxenye yohlelo lokusebenza lwebhizinisi. Kuthathwa ngokuthi yamukelwe noma ikhokhelwe ngokheshi onyakeni owodwa. Impahla ekhokhelwa onyakeni owodwa ibandakanya yize ingacini ngama-inventories, uhwebo kanye nokwamukelwayo, ukheshi kanye nokulingana nokheshi.

7.3.3 Ukwethembela

- (a) Abafakizicelo, kuncike kufomu lomfakisicelo, bazonikwa umphumela wokukala ngokususela -
 - (i) kuphesenti (%) lengeniso elisuselwa emkhakheni/emikhakheni yezokudoba ngaphakathi eNingizimu Afrika.
 - (ii) nephesenti (%) lengeniso elisuselwa emkhakheni/emikhakheni yezokudoba ngaphakathi eNingizimu Afrika.

7.3.4 Ukulandelwa kwezimiso

Abafakizicelo, kuncike kumfakisicelo, bazonikwa umphumela okaliwe ngokususela ekutheni -

- (a) umfakisicelo ulahlwe ngecala ngaphansi kwe-MLRA, noma imithethonqubo ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
- (b) umfakisicelo ungene esivumelwaneni sokuvuma icala ngaphansi koMthetho Wenqubo Yezobugebengu 51 yowezi-1977, ngecala lokuphula i-MLRA, noma imithethonqubo ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
- (c) umfakisicelo okhokhe imali yokuvuma icala lokuphula i-MLRA ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
- (d) isikebhe somfakisicelo, imoto, indawo noma enye impahla kamfakisicelo idliwe ngaphansi kwe-MLRA noma idliwe ngaphansi koMthetho Wokunqanda Ubugebengu Obuhleliwe 121 we-1998 ngokwesikhathi esinqunywe kuziNqubomgomo Eziqondene Nomboni yezokudoba.

Izinqumo ngezicelo zabafakizicelo abanamacala asaqhubeka emthethweni zizothathwa uma sekuphele lawo macala. Uma umfakisicelo eliwinile icala, umfakisicelo uzonikwa imvume yokusebenzisa ilungelo lakhe. Uma engaliwini icala, ilungelo lizodluliselwa ngokwezabelo kubo bonke abafakizicelo abaphumelele abasesigabeni esifanayo.

7.3.5 Ukuthola isikebhe esifanele

- (a) Abafakizicelo, kuncike kufomu lomfakizicelo, bazonikwa umphumela wokukala ngokususela ekutheni -
 - (i) umfakizicelo ungumnikazi noma ukwazi ukuthola isikebhe esifanele.
 - (ii) izikebhe eziqokwe umfakizicelo zihambisana nezimiso zokuphepha olwandle kanye neminingwane yezikebhe ngokoMthetho Wemikhumbi Yabahwebi 57 we-1951, uMthetho Wezokuphathwa Kwezokuphepha Olwandle waseNingizimu Afrika (i-SAMSA") 5 we-1998, uMthetho Wezithuthi Zasolwandle 2 we-1981 kanye neMithethonqubo yayo.

- (b) Isikebhe esifanele sizochazwa kunqubomgomo eqondene nomboni yezokudoba efanele, kodwa ukuze isikebhe sisebenze embonini yezokudoba eNingizimu Afrika, isikebhe kumele:
 - (i) sibe nefulegi laseNingizimu Afrika (ngaphandle kwalapho kubhalwe okuhlukile kunqubomgomo eqondene nomboni yezokudoba);
 - (ii) sifakwe uhlelo lokuqapha isikebhe olugunyazwe umnyango nolusebenzayo (i-VMS) (ngaphandle kwalapho sikhululwe uMnyango);
 - (iii) sibhaliswe yiNhlango Yezokuphepha Kwemikhumbi eNingizimu Afrika (i-SAMSA) ukuthi sifanelekile ukusetshenziselwa ukudoba; futhi
 - (iv) singabi sohlwini lezikebhe ezinegama elibi kunoma eyiphi i-RFMO kanye/noma Ezivumelwaneni.

7.3.6 Uguquko

- (a) Inqubomgomo Ewujikelele yowezi-2021 ibheke ukuqhubeka nokuguqula nokuthuthukisa amazinga uguquko oselufeziwe embonini yezokudoba. Wuguquko olukuzingaqophelo eliphambili kuphela oluzohlolishwa, okusho ukuthi, uguquko oludala izinzuzo zangempela kulabo ababephucwe amathuba phambilini njengoba kuchazwe kuMthetho Wesikhwama Sokufukulwa Kuzwelonke 105 we-1998 (i-NEFA). Ngokwe-NEFA "abantu ababephucwe amathuba ngokomlando" kushiwo labo bantu noma uhlobo lwabantu okwathi, ngaphambi kokuba umbuso wentandoyeningi owaziwa ngokuqalisa nokuphoqelela uMthetho woMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 (uMthetho No. 108 we-1996), babephucwe amathuba becwaswa ngokungafanele ngenxa yobuhlanga futhi kubandakanywa nomuntu ngokomthetho noma izinhlangano zabo nezilawulwa yilabo bantu.

- (b) Abantu ababephucwe amathuba ngokomlando embonini yezokudoba ngenxa yobuhlanga nobulili, ikakhulukazi maqondana Namalungelo okudobela ukuhweba. Ngakho kubalulekile ukukhuthaza ukubamba iqhaza kwalabo bantu ababephucwe amathuba ngokomlando kuwo wonke amagatsha asezimbonini zokudoba. Kubalulekile nokubhekana nokungalingani okungokomlando futhi kufinyelelwe ekulinganiseni embonini yezokudoba.
- (c) Enqubweni yokwabiwa kwamalungelo, ubuhlanga, ubulili kanye neminyaka yabafakizicelo, esimweni somuntu ngokomthetho, kuzobhekwa ubuhlanga, ubulili kanye neminyaka yabaninimasheya noma amalungu, abaphathi, abahlinzeki kanye nabasebenzi. Phezu kwalokho, kuzobhekwa nemisebenzi yokwelulela isandla emphakathini yenkampani.
- (d) Kuzohlolwa futhi kucutshungulwe ukuzuza ngokobunikazi kwabafakizicelo ababephucwe amathuba ngokomlando, ngokubanika amalungelo okuvota angenamkhawulo kanye nentshisekelo kwezomnotho ehambisana nobunikazi bempahla. Ekunqumeni ngokuthi amalungelo okuvota nentshisekelo yezomnotho "akunamkhawulo", Onikwe Igunya angase abheke uMgomo 100 woMthetho we-BBBEE.
- (e) Abafakizicelo abaphumelele bazonikwa amaphuzu ngokufukula abasebenzi babo ngokohlelo lobunikazi babasebenzi, kuncike ekutheni abafakizicelo bangabonisa ukuthi abasebenzi babo bathola inzuzo yangempela (enjengenkokhelo yamasheya ebhizinisi kanye nokuphatha ngokuhlanganyela) ohlelweni futhi lezo zinzuzo zingaqinisekiswa. Kuzobhekwa nesibalo sabantu ababephucwe amathuba phambilini ngokomlando kubaphathi abakhulu nabayizikhulu eziphezulu ebhizinisini lokudoba lomfakisicelo. Abaphathi abakhulu noma abayizikhulu eziphezulu bavame ukuba yilabo abantu abanomsebenzi wokuhola imisebenzi yezamaqhingasu okusebenza enkampanini futhi abaphethwe ngqo wumqondiisi wezokuphathwa kwebhizinisi noma iBhodi.
- (f) Uma kuhlolwa futhi kunikwa izingxelo amaphuzu, nalapho kwabiwa izingxenye ze-TAC kubafakizicelo abaphumelele, Onikwe Igunya angase akhethe abafakizicelo ngokususela kwindlelakuhlunga yoguquko. Uma kukhishwa umphumela wendlelakuhlunga yoguquko, noma kwabiwa izingxenye ze-TAC, Onikwe Igunya angase abheke: izibalo zabantu noma olunye ulwazi oluhlinzekwe yi-Statistics South Africa maqondana nokwakheka kwesibalo sabantu baseNingizimu Afrika, kanye nephesenti lalabo bantu elakheke ngokwamaqoqo abantu abahlukene ngokwendalo; isidingo sokuqinisekisa ukuhlonishwa nokubamba iqhaza ngendlela eqondakalayo embonini yezokudoba Kwabantu Ababephucwe Amathuba

Phambilini (ama-HDI) kanye nemigomo yokusebenza okuhle ngaphansi koMthetho Ochitshiyelwe Wokufukulwa Kwabantu Abamnyama Kwezomnotho Okubanzi.

- (g) Abafakizicelo, kuncike kufomu lomfakizicelo, bazonikwa umphumela wokukala ngokususela -
- (i) iphrofayela kamfakizicelo maqondana nobuhlanga, ubulili kanye neminyaka yabantu;
 - (ii) iphrofayela yenkampani yabantu abamnyama abangabanikazi ;
 - (iii) iphrofayela yokufukulwa umfakizicelo kanye nekhodi labasebenzi maqondana nabantu abamnyama, abesifazane, abasha, abantu abaphila nokukhubazeka kanye neminyaka yokusebenza;
 - (iv) iphesenti Lamaholo ama-HDI Emholweni Uwonke;
 - (v) Inkokhelo yamasheya ekhokhelwe abaninimasheya noma amalungu kanye nesilinganiso sokudluliselwa kwemali kulabo abazuzayo, okubandakanya ukuhlukanisa ngokobuhlanga nobulili kwalabo abazuzayo;
 - (vi) Inkokhelo yamasheya ekhokhelwe abaninimasheya abakuThrasti Yabasebenzi kanye nesilinganiso sokudluliselwa kwemali kulabo abazuzayo; okubandakanya ukuhlukanisa ngokobuhlanga nobulili kwalabo abazuzayo;
 - (vii) iphesenti lenzuzo ephelele yabafakizicelo elisetshenziselwa ukwelulela isandla emphakathini;
 - (viii) ukuthi ingabe umfakizicelo uthenga impahla / imisebenzi enkampanini (ezinkampanini) zabantu abamnyama;
 - (ix) ukuthi ingabe umfakizicelo ungumqashi njengoba kuchazwe kuSigaba 1 soMthetho Wezokulinganisa Kwezemisebenzi 55 we-1998;
 - (x) ukuthi ingabe umfakizicelo uwugcinile na uMthetho Wezokulinganisa Kwezemisebenzi 55 we-1998;
 - (xi) ukuthi ingabe umfakizicelo unalo na uhlelo lwezokulinganisa emsebenzini;
 - (xii) ukuthi ingabe umfakizicelo uwugcinile uMthetho Wokuthuthukiswa Kwamakhono 97 we-1998;
 - (xiii) ukuthi ingabe umfakizicelo ukhokhe izinkokhelo ngokoMthetho Wezinkokhelo Zokuthuthukiswa Kwamakhono 9 we-1999;
 - (xiv) ukuthi ingabe umfakizicelo unomlawuli wezokuthuthukiswa kwamakhono;
 - (xv) ukuthi ingabe umfakizicelo unalo na uhlelo lwezamakhono lwasemsebenzini;

- (xvi) ukuthi ingabe umfakisisicelo ubamba iqhaza ezinhlelweni zokufundiswa umsebenzi usemsebenzini;
- (xvii) ukuthi ingabe umfakisisicelo uzibandakanya emisebenzini yokuthuthukisa ibhizinisi ukuze kubhekanwe nokwandisa ubunikazi babantu abamnyama, ukuphatha kanye namakhono emabhizinisini amasha, okubandakanya izinhlelo zotshalomali kanye nokuthola uxhasomali;
- (xviii) inani langempela nephesenti elisetshenziselwe impahla nemisebenzi ngaphakathi nangaphandle kwaseNingizimu Afrika;
- (xix) ukuthi ingabe umfakisisicelo uqalise imisebenzi eyinzuzo emkhakheni othile/wezokudoba asebenza kuwo;
- (xx) ukukhuthaza ukuthuthukiswa komnotho wasendaweni maqondana namachweba okubuywe nezinhlanzi futhi zasetshenzwa kuwo; kanye
- (xxi) nokukhuthaza ukuthuthukiswa komnotho wasendaweni ngokuzibophezela maqondana namachweba okubuywe nezinhlanzi futhi zasetshenzwa kuwo.

7.3.7 Ukudalwa kwamathuba omsebenzi

- (a) Inhloso ebalulekile yokwabiwa Kwamalungelo okudobela ukuhweba wukudala isimo esilungele ukudalwa kwamathuba omsebenzi, ikakhulukazi, ekudalweni kwamathuba eminye imisebenzi okusetshenzwa kuyo ngokugcwele kanye nezingaqophelo elingcono embonini yezokudoba.
- (b) Kuzobhekwa imisebenzi edalwe abafakizicelo abanamalungelo okudobela ukuhweba kanye nokwanda kwemisebenzi ngenxa yokwabiwa kwamalungelo okudobela ukuhweba esikhathini eside.
- (c) Kukhethwa ukudalwa kwamathuba emisebenzi yokusebenza ngokugcwele kunemisebenzi yezikhathi ezithile onyakeni futhi ukuqashwa ngezikhathi ezithile onyakeni kukhethwa uma kuzoba ngaphansi kwenkontileka.
- (d) Ngakho-ke, abafakizicelo, kuncike kufomu lomfakisisicelo nomboni yezokudoba, bazonikwa umphumela okaliwe ngokususela -
 - (i) isibalo sabasebenzi abaqashwe ngokugcwele ngonyaka wezimali ophela ngosuku olubhalwe kuziNqubomgomo Eziqondene Nomboni yezokudoba.
 - (ii) ukuthi ingabe umfakisisicelo uyayilandela na imigomo yokusebenza ezikebheni zokudoba nasezimbomini, yokuphepha olwandle, imigomo yezempilo nokuphepha ngokoMthetho

Wezempilo Nezokuphepha Emsebenzini 85 we-1993 kanye noMthetho Wezinxephezelo Ngokulimala Nokuthola Izifo Emsebenzini 130 we-1993.

7.2.8 Amaphuzu okuhlunga

7.2.8.1 uma kunabafakizicelo abaningi kakhulu abanemiphumela elinganayo, Onikwe Igunya angasebenzisa indlelakuhlunga yokwahlukanisa ukuze kukhethwe phakathi kwabafakizicelo abanemiphumela elinganayo.

7.2.8.2 amaphuzu okuhlunga angase aphazamise indlelakuhlunga enganikwanga maphuzu noma enikwe akalwe ngendlela ehlukile.

8 UKUGUNYAZA ISICELO SAMALUNGELO OKUDOBELA UKUHWEDA

8.1 Inani Lokuvumelekile Okungadotshwa Sekukonke (i-TAC), Umzamo osetshenziwe Uwonke (i-TAE) noma inhlanganisela yakho

8.1.1 UNgqongqoshe noma Onikwe Igunya unamandla okunquma, ngokwesigaba 14 se-MLRA ku-TAC yomhlaba jikelele, i-TAE noma inhlanganisela yakho ezosetshenziwa minyaka yonke embonini yezokudoba ngayinye.

8.1.2 I-TAC, i-TAE noma inhlanganisela yakho inqunywa Onikwe Igunya ngokubheka, phakathi kokunye, umbiko wokuhlolwa kwezinhlanzi ezicacisiwe, umlando, abasebenzisi bezinsiza, ukugcineka kwemisebenzi yabanikazi bamalungelo nokusebenza kwemboni yezokudoba. Onikwe Igunya uzokwaba isabelo sohwebo sasendaweni se-TAC, i-TAE noma inhlanganisela yakho enqunyiwe yabanikazi bamalungelo okudobela ukuhweba ngokususela engxenyeni egunyazelwe umfakisicelo ophumelele ngesikhathi senqubo yokwabiwa kwamalungelo okudobela ukuhweba. Isabelo somnikazi welungelo singase sinciphise noma zandise izingxenye zohwebo lwasendaweni zonyaka ze-TAC, ze-TAC noma inhlanganisela yakho enqunyiwe ingancipha noma yande ngokuhlukana. Ngokwesigaba 14(4) se-MLRA, uma okubanjelwe uhwebo okuvumelekile maqondana namalungelo okudobela ukuhweba akhona enyuka, ubungako bokwanda kuyotholakala ukuze uNgqongqoshe enze isabelo.

8.1.3 Ingxenye yezohwebo ye-TAC, ye-TAE noma inhlanganisela yakho ingagodlwa ngokwamandla kaNgqongqoshe noma Onikwe Igunya ukuze kudluliswe isinqumo noma kube ngesinye isimo (izimo) esiseqhulwini esiyokwenza umsebenzi wokukhuthaza ukufezwa kwezimpokophelo ze-MLRA ezendlalwe kusigaba 2.

8.1.4 Maqondana nokudluliswa kwezinqumo, ingxenye esele ye-TAC, i-TAE noma inhlanganisela yakho, ithinta u-8.1.3 ngenhla, emuva kokuqedwa kwenqumo yokudluliswa kwezinqumo nezinqubo zasenkantolo kulandela ukungaphumeleli ekudlulisweni kwezinqumo noma uma zingekho izicelo zokudluliswa kwezinqumo ezifakiwe, izokwabiwa ngokwezixenye ngokufanele kubafakizicelo abaphumelele noma abanikazi bamalungelo akhona.

8.1.5 Uma kwenzeka ingxenye ye-TAC, ye-TAE egodlwe inqubo yokudluliswa kwezinqumo inganele, ngokususela emiphumeleni yesinqumo senkantolo odabeni olulodwa, ingxenye engatholwa

abafakizicelo abaphumelele iyochitshiyelwa ngokwehliswa ukuze ingeqi ku-TAC, ku-TAE noma inhlanganisela yakho egunyaziwe. ukuqaliswa kwezichibiyelo kuyobhekanwa nakho kuzinqubomgomo eziqondene nomboni yezokudoba.

8.1.6 UNgqongqoshe angase, maqondana nanoma womuphi umboni yezokudoba, emuva kokubonisana neSigungu Sezokweluleka Ngokubonisana, izingxenye ze-TAC, i-TAE, noma inhlanganisela yazo, okwabiwa minyaka yonke abadobi abadobela ukuziphilisa, ukudobela ukuhweba kwasendaweni nokudoba kwamanye amazwe, kanye namalungelo agunyaziwe maqondana nakho, kuyoncishiswa.

8.2 I-Fisheries Transformation Council (UMkhandlu Wezokuguqula Umboni yezokudoba)

Uma sesisungilwe, uNgqongqoshe angase abele uMkhandlu Wezokuguqulo Kwezokudoba amalungelo okudobela ukuhweba ("uMkhandlu") ngokwesigaba 31 se-MLRA. UMkhandlu, uma sowusunguliwe, uyoqashisa ngamalungelo ngokwendlelakuhlunga enqunywe uNgqongqoshe ebantwini abasemkhakheni owuphucwe amathuba phambilini emphakathini namabhizinisi amancane naphakathi nendawo ngobukhulu.

8.3 Ukuthathwa kwesinqumo kwesikhashana kanye nokumenyenzelwa kwakho

8.3.1 Onikwe Igunya angase akhiphe uhlu lwesikhashana ukuze kuphawulwe nganoma esiphi isicelo / eziphi izicelo kunoma omuphi umboni yezokudoba.

8.3.2 Onikwe Igunya angacela kuphawulwe nganoma oluphi ulwazi oluhlinzekwe umfakisicelo bese kuthathwe isinqumo ngokwalokho kuphawula.

8.3.3 Onikwe Igunya angamema abantu bazokwenza izethulo maqondana nokuhlolwa kwezicelo ngaphambi kokuthathwa kwesinqumo sokugcina.

8.4 Ulwazi oluzocutshungulwa

8.4.1 Indlela emiswe ngezansi izosetshenziswa Onikwe Igunya maqondana nolwazi oluzocutshungulwa lapho sekuhlolwa izicelo:

(a) **Izingxenye zefomu lesicelo ezingagcwaliswanga**

Ngaphandle kwalapho kuveziwe, uma ingxenye yefomu lesicelo ingagcwalisiwe, kuzothathwa ngokuthi leyo ngxenye yefomu ayisebenzi esimweni somfakisicelo. Uma isigaba sinamaphuzu amahle ahambisana nempendulo, alikho iphuzu elizokhishwa futhi uma isigaba sinephuzu elingelihle elihambisana nempendulo, kuzokhishwa amaphuzu angemahle.

(b) **Ulwazi olufike emuva kwesikhathi**

Ulwazi oluthunyelwe emuva kosuku lokuvala lezicelo aluzukucutshungulwa.

(c) **Ulwazi lwezinsiza zangaphandle**

Ulwazi olucindezelayo ngesicelo esitholakale sivela emithonjeni yangaphandle aluzukucutshungulwa wonikwe igunya ngaphandle kwalapho isicelo sinikwe ithuba lokwenza izethulo maqondana nalolo lwazi.

Onikwe Igunya angasebenzisa ulwazi oluqokethwe kuzizindalwazi zoMnyango Kahulumeni noma Zezikhungo ngesikhathi sokwabiwa kwamalungelo uma kucutshungulwa futhi kuhlolwa izicelo.

(d) **Ukusetshenziswa kwesizindalwazi soMnyango**

Onikwe igunya angasebenzisa ulwazi olukusizindalwazi soMnyango ngqo ngesikhathi senqubo yokwabiwa kwamalungelo, kodwa lokho kuzokwenziwa inqobo uma abafakizicelo benikwe ithuba lokwenza izethulo maqondana nobuqiniso bemininingo.

(e) **Sebenzisa ulwazi loMnikazi Welungelo**

Uphiko olunegunya lungadinga ukuthi abafakizicelo bathumele ulwazi olucwaniyiwe oluqinisekisiwe ngesikhathi senqubo yokwabiwa kwamalungelo. Onikwe igunya luzodinga abafakizicelo abaphumelele ukuba ngabaNikazi Bamalungelo ukuba bagcine ulwazi ngesikhathi selungelo.

(f) **Ukuthunyelwa kolwazi olungasilo iqiniso noma imibhalo kanye nokungadaluli**

- (i) Abafakizicelo noma abameleli abagunyaziwe kudingeka bafakaze ngokudalula phambi komfungisi besho, phakathi kokunye, ukuthi abaluthumelanga ulwazi noma imibhalo elungasilo iqiniso nokuthi abahlulekanga ukudalula ulwazi olubalulekile.
- (ii) Ukuthunyelwa kolwazi noma imibhalo engasilo iqiniso noma ukuhluleka ukudalula ulwazi olubalulekile kuzothathwa ngokuthi kuyisizathu esizimele sokuchitha isicelo. Kuzothathwa ngokuthi umfakizicelo uhlinzeke ngolwazi olungasilo iqiniso uma kunokushayisana okukhulu phakathi kolwazi oluhlinzekwe umfakizicelo kanye nolwazi oluqukethwe kusizindalwazi nakumarekhodi agcinwe wuMnyango futhi lapho kungeke kwenzekwe ukuthi zozimbili izinhlobo zibe yiqiniso.
- (iii) Ukwenza isitatimende esingasilo iqiniso ebufakazini bokudalula, wazi ukuthi akusilo iqiniso, kuyicala lobugebengu.

8.5 Izicelo zokuthola olunye ulwazi, uphenyo kanye nokubonisana

- 8.5.1** Onikwe Igunya angamema abafakizicelo bazokwenza izethulo noma bethule olunye ulwazi ngokubhaliwe uma kunokungaqinisekisi ngodaba oluthile olukhulu esibalweni esikhulu sezicelo. Uma kubanjwe imihlangano yokulalelwa kwezethulo, kuzovumeleka ukumelwa ngabameli okuyibo abazobhekana noNikwe Igunya.
- 8.5.2** Onikwe Igunya angacela lthimba Lezokuqinisekisa amalungelo okudobela ukuhweba ukuze liphenye nganoma oluphi udaba, okubandakanya ubuqiniso bolwazi oluhlinzekiwe.
- 8.5.3** Abafakizicelo kumele bathobele imigomo nemibandela yamaThimba Ezokuqinisekisa amalungelo okudobela ukuhweba (isibonelo, ukuthumela izimpendulo ngezicelo zolwazi noma izincazelo ngokubhaliwe ngesikhathi, ukuhambela imihlangano nabaphenyi, ukuphendula imibuzo ngokwanelisayo emihlanganweni, futhi lapho kunesidingo, ngokugunyaza abaphenyi ukuba bafinyelele kubanimasheya, abasebenzi, izindawo zokusebenzela, izikebhe nemibhalo). Ukuhluleka ukuthobela lokhu kungaba yisizathu esizimele zokuchitha isicelo.

8.6 Ukuzibandakanya komfakisicelo nobudlelwano nabanye abafakizicelo

8.6.1 Ukubandakanywa kwamabhizinisi kanye nabasebenzisana nawo

Inkampani nesebenzisana nabo angese banganikwa ilungelo elingaphezu kwelilodwa emkhakheni abafake isicelo kuwo, ukugwema ukukhohlisa ngobunikazi nokuhlomula kwamabhizinisi awodwa kanye nokwandiswa kokutholakala kwezinsiza zasolwandle. Abafakisicelo bangase badingeke ukuba badalule ubudlelwano babo nabanye abafakizicelo ngokwabiwa kwamalungelo kulo mkhakha, kanye nakweminye imikhakha yezohwebo. Uma ibhizinisi nalabo elisebenzisana nabo befaka isicelo selungelo kulo mkhakha, kuyokhethwa inkampani enelungelo kunalabo abasebenzisana nabo.

8.6.2 Ukusebenzisana Kwezinkampani Zandawonye

Uma izinkampani ezimbili noma ngaphezulu ezingezabo futhi ezilawulwa ngabaninimasheya abafanayo befaka isicelo selungelo lokudobela ukuhweba kunoma omuphi umboni yezokudoba, Onikwe Igunya uzocubungula ilungelo lezokudoba kwenye yezinkampani uma kuba nezinkampani ezisebenzisana zandawonye ezimbili noma ngaphezulu ezifaneleke wukuthola ilungelo lokudoba kulowo mkhakha. Onikwe Igunya angabheka ukuhlukanisa ilungelo lokudoba elilodwa phakathi kwezinkampani ezisebenzisana zandawonye uma zonke zifaneleke ukuthola ilungelo lezokudoba embonini yezokudoba elifakelwe isicelo.

8.6.3 Abantu abahlala ndawonye

Abantu abahlala ndawonye abanakunikwa ilungelo elingaphezu kwelilodwa embonini yezokudoba abafake isicelo kuwo, ukugwema ukukhohlisa ngobunikazi nokuhlomula kwamabhizinisi awodwa kanye nokwandiswa kokutholakala. Abafakizicelo kudingeka badalule ubudlelwano babo kwabanye abafakizicelo kweminye imikhakha yezokudobela ukuhweba. Uma kunomuntu ongaphezu koyedwa ofake isicelo selungelo emzini owodwa, uMnyango ungabonisa nabafakizicelo bese unqume ukuthi ngubani phakathi kwabo ozoba umfakisicelo onesicelo esiphumelele. Onikwe Igunya angabheka ukuhlukanisa ilungelo lokudoba elilodwa phakathi kwabafakizicelo abaphumelele uma befaneleke ukuthola ilungelo lezokudoba embonini yezokudoba elifakelwe isicelo.

8.7 Ukuthathwa kwesinqumo sokugcina kanye nokumenyenzelwa kwaso

8.7.1 "Amalungelo okudobela ukuhweba" abiwa ngaphansi kwe-MLRA akasiwo amalungelo empahla

futhi kumele kuqondwe ukuthi ayimvume emiswe ngokomthetho yokuvuna izinsiza eziphila olwandle ngesikhathi esithile esinqunyiwe. Kanjalo, ukusulwa noma ukuphucwa akusho ukudliwa kwelungelo lempahla ngaphansi kwencazelo ekusigaba 25 soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996 noma uMthetho Wokudliwa Kwempahla 63 we-1975. Lokhu kuveza ngokusobala kusigaba 18(6) se-MLRA, esihlinzeka ngokuthi ilungelo lokudoba liyasebenza ngesikhathi esinqunyiwe nguNgqongqoshe (inxusa lakhe), okuyothi emuva kwalokho libuyiselwe kuHulumeni.

8.7.2 Onikwe Igunya uzogunyaza amalungelo kubafakizicelo abaphumelele ngokwezinhlinzeko zesigaba 18 se-MLRA, iNqubomgomo Ewujikelele: 2021 kanye nenqubomgomo eqondene nomboni yezokudoba ofanele emuva kokuhlolwa kwezicelo nokucutshungulwa kokufakiwe noma izimvo maqondana nohlu lwesikhashana.

8.7.3 Emuva kokuba Onikwe Igunya sethathwe izinqumo zokugcina ngokwabiwa kwamalungelo kanye nobungako noma umzamo, uMnyango uzokwazisa abafakizicelo ngokubhaliwe emakhelini amabhizinisi abo abhaliwe ngesinqumo sokugcina maqondana nezicelo zabo.

8.7.4 Emuva kokuba Onikwe Igunya sethathwe futhi lwamemezela isinqumo sokugcina ngokwabiwa kwamalungelo okudobela ukuhweba embonini yezokudoba noma adlulisa isinqumo sokugcina ngokugunyazwa kwamalungelo abafakizicelo embonini yezokudoba oqondiwe, umsebenzi woNikwe Igunya wokwaba amalungelo okudobela ukuhweba embonini yezokudoba uzophelelwa yisikhathi futhi awunakuqalwa phansi ngoNikwe Igunya ngaphandle kwalapho Onikwe Igunya enze iphutha ekugunyazeni ilungelo okudingeka ukuba lilungiswe. Ngamanye amazwi, Onikwe Igunya uzokusebenzisa umgomo wokuthi isinqumo sesikhulu siyisinqumo sokugcina embonini yezokudoba ocacisiwe uma sekudluliselwa imiphumela wokugcina yokwabiwa kwelungelo lokudoba kubafakizicelo ngaphandle kwalapho kunephutha okumele lilungiswe.

8.8 Ukuqhubeka Nesicelo Samalungelo Okudobela ukuhweba

Uma kuba nelungelo lokudobela ukuhweba elithathwayo ngokwesigaba 28 se-MLRA noma elinye ilungelo emuva kokuphothulwa kwezinqubo zokubuyekezwa ngokomthetho eziqalisiwe ngenxa

yalokho, ilungelo lingabelwa umfakisicelo ofake isicelo ngesikhathi senqubo yokwabiwa kwamalungelo yakamuva kulowo mboni yezokudoba, ohlangabezane nazo zonke izindlelakuhlunga zokushiya ngaphandle futhi ethole amaphuzu anele phakathi kwabafakizicelo abangaphumelelanga njengoba kubhalwe Ezizathwini Ezishicilelwe Jikelele zikaNgqongqoshe noma Amunike Igunya. Laba bafakizicelo bazofakwa ohlwini lwabalindile futhi bazokwabelwa ilungelo ngokuvela kwalo ngaphandle kwesidingo sokucela ukuba kufakwe izicelo kabusha.

Okunye okungenziwa wuNgqongqoshe angase abe amalungelo okudobela ukuhweba eMkhandlwini ngokwesigaba 31 se-MLRA lapho uMkhandlu, uma sowusunguliwe, uyoqashisa ngamalungelo ngokwendlelakuhlunga enqunywe uNgqongqoshe ebantwini ababephucwe amathuba phambilini emphakathini namabhizinisi amancane naphakathi nendawo ngobukhulu.

8.9 Uhlobo Lwabanikazi Bamalungelo

8.9.1 Isigaba 18 se-MLRA sihlinzeka ngokuthi abantu baseNingizimu Afrika bangaba namalungelo okudobela ukuhweba.

8.9.2 Ngokubheka uhlobo lwemisebenzi nokutholakala kwezinsiza, ngabantu baseNingizimu Afrika abalandelayo njengoba kuchazwe ku-MLRA njengoba kubhalwe kuziNqubomgomo Eziqondene Nomboni yezokudoba abayonikwa amalungelo okudobela ukuhweba:

- (a) isakhamuzi saseNingizimu Afrika;
- (b) inkampani;
- (c) i-close corporation;
- (d) ama-co-operatives; kanye
- (e) iThrasti

8.10 Ubungako besikhathi selungelo

8.10.1 Amalungelo okudobela ukuhweba ayogunyazwa kuyo yonke imikhakha esikhathini esingeqe eminyakeni eyi-15.

8.10.2 Ubungako besikhathi samalungelo siyonqunywa Onikwe Igunya kubhekwa, phakathi kwezinye izinto, izinga loguquko embonini yezokudoba, imali yempahla ekhona embonini yezokudoba, isidingo

sokukhuthaza ukuqhubeka kotshalomali nokukhula komnotho, ulwazi lwamanje ngesimo semvelo sezinhlobo zezinhlanzi eziqondiwe kanye nokusebenza kwababambiqhaza embonini yezokudoba.

8.11 Ukudluliswa kwezinqumo

8.11.1 Onikwe Igunya, lapho kunesidingo futhi kufanelekile, uyobeka eceleni ingxenye ye-TAC, ye-TAE noma inhlanganisela yakho ilindele ukudluliswa kwezinqumo. Ingxenye engabiwe ye-TAC, ye-TAE noma inhlanganisela yakho ibekwe eceleni ukuze ilindele ukudluliswa kwezinqumo, iyokwabiwa ngokwezabelo kubo bonke abafakizicelo kanye nabadlulisizinqumo abaphumelele. izabelo zabafakizicelo abaphumelele zingase zichitshiyelwe kuncike emphumeleni wenqubo yokudluliswa kwezinqumo.

8.11.2 Onikwe Igunya uyokwazisa bonke abafakizicelo ngezinsuku ezimiselwe ukudluliswa kwezinqumo.

8.11.3 Noma omuphi umfakizicelo noma umuntu othintekile noma onentshisekelo uyoba nelungelo lokudlulisa isinqumo ngezinqumo zoNikwe Igunya. Ukudluliswa kwezinqumo kuyofakwa lapho kunqatshiwe ukugunyazwa kwelungelo noma lapho kuphikisanwa nesinqumo, inqubo, kanye nendlelakwenza yobungako noma yomzamo.

8.11.4 UNgqongqoshe, njengophiko lokudluliswa kwezinqumo, uyocubungula amaqiniso njengoba enjalo ngosuku lokuvalwa kwezicelo futhi uyobheka amaphuzu avelayo emuva kwalokho. Isibonelo, uma umdlulisicelo etshale imali ekutholakaleni kwesikebhe emuva kosuku lokuvalwa kwezicelo, lokho akuzukusetshenziswa lapho kucutshungulwa ukudluliswa kwesinqumo.

8.11.5 Uma sesithathiwe isinqumo, umdlulisisinqumo uyokwaziswa ngesinqumo sokudluliswa kwesinqumo ngokubhaliwe.

8.11.6 Emuva kwesinqumo sophiko lokudluliswa kwezinqumo, umdlulisisinqumo angaqonda ezinkantolo ukuze amajaji abuyekeze isicelo ezinsukwini eziyi-180 emuva kokuba umdlulisisinqumo aziswe ngesinqumo sophiko lokudluliswa kwezinqumo.

8.12 Ukukhokhwa kwezindleko zokugunyazwa kwelungelo

8.12.1 UMnyango uzonquma izindleko zokugunyazwa kwelungelo ezisebenzayo ezikhokhwa umboni yezokudoba ngamunye emuva kokubonisana okufanele Izindleko zokugunyazwa kwelungelo zomboni yezokudoba ngamunye ziyonqunywa wuNgqongqoshe ngokubonisana noNgqongqoshe Wezezimali.

8.12.2 Izindleko zokugunyazwa kwelungelo ziyokhokhwa ngabafakizicelo abaphumelele lapho benikwa amalungelo okudobela ukuhweba. Izindleko zokugunyazwa kwelungelo kumele zikhokhwe ngokugcwele ezinsukwini ezingama-60 emuva kokuthola incwadi yakhe yokugunyaza ilungelo. Umnyango awuzukuzamukela izicelo zokukhishwa kwezimvume/zamalayisense kubaninimalungelo abaphumelele ukuthola ilungelo kuze kube yisikhathi lapho izindleko zokugunyazwa kwelungelo eziyokhokhwa ngaso. Uma umnikazi welungelo ehluleka ukukhokha izindleko zokugunyazwa kwelungelo zakhe ezikhathini ezimisiwe, uMnyango, ngokwesigaba 28 se-MLRA, uyoqalisa isigaba 28 sezinqubo maqondana nalowo mnikazi welungelo.

8.13 Ukudluliswa kwelungelo lokudoba

8.13.1 Ukudluliswa kwamalungelo okudoba okugunyazwe ngokwe-MLRA kuzobhekanwa nakho ngokweNqubomgomo Yokudluliswa Kwamalungelo Okudoba kanye nezinqubomgomo eziqondene nomboni yezokudoba.

8.13.2 Maqondana nezinhloso zenqubo yokwabiwa kwamalungelo kwakamuva, ukudluliswa kwamalungelo kanye/noma nezaziso zokushintsha kobunikazi bamasheya kanye/noma izintshisekelo zamalungu ezinkampani kanye/noma ama-close corporations ayenokukhululwa okugunyazwe ngokwesigaba 81 se-MLRA, akumele kudale ukuthi umfakisicelo azuze ngoba lokho kudluliswa emuva kokuphelelwa yisikhathi kwamalungelo ayo.

8.14 Ukusetshenziswa kwelungelo lokudoba

8.14.1 Isigaba 13 se-MLRA simise ukuthi "Akekho umuntu oyosebenzisa ilungelo alinikwe ngokwesigaba 18 noma enze omunye umsebenzi ngokwe-MLRA ngaphandle kwalapho imvume ikhishwe uNgqongqoshe kulowo muntu ukuze asebenzise lelo lungelo noma enze lowo msebenzi".

8.14.2 Izimvume zokusebenzisa amalungelo okudobela ukuhweba ayokhishelwa abanikazi bamalungelo ngokwezinhlinzeko zesigaba 13 se-MLRA -

- (a) Zesikhathi esicacisiwe esingeqi onyakeni owodwa;
- (a) Kuncike emigomweni enqunywe wuNgqongqoshe wezimvume; kanye
- (b) Nokukhokhwa kwezindleko ezinqunywe wuNgqongqoshe ngokwesigaba 25 se-MLRA.

8.14.3 Ilungelo lokudobela ukuhweba liyosebenziswa uma sekukhishwe imvume yokudoba kuphela ikhishwa Onikwe Igunya ofanele.

8.14.4 Imvume yokusebenzisa ilungelo lokudobela ukuhweba lingase lingugunyazwa uma izimo zemvume eyakhishwa phambili ngokwe-MLRA zingalandelwanga.

8.15 Ukukhokhwa kwezinkokhelo

8.15.1 Abafakizicelo abanikwa amalungelo okudobela ukuhweba enqubweni yokwabiwa kwamalungelo yaphambilini kuyodingeka ukuba bahlinzeke ngobufakazi bokuthi azisilele emuva kokukhokhelwa maqondana nezinhlanzi okubuywe nazo ngosuku lokuthunyelwa kwezicelo zabo.

8.15.2 Izinkokhelo ezikhokhelwa izinhlanzi okubuywe nazo ngesikhathi sokuqinisekiswa kwelungelo eligunyaziwe kule nqubo yokwabiwa kwamalungelo kuzonqunywa wuNgqongqoshe.

8.16 Ukusulwa nokumiswa kwamalungelo, amalayisense kanye nezimvume

8.16.1 Ilungelo, ilayisense kanye nezimvume ezikhishwe ngokwe-MLRA zingathathwa, zimiswe, zisulwe, zichezukiswe noma zincishiswe ngokwezinhlinzeko zesigaba 28 se-MLRA.

8.16.2 Ukuphulwa kwezinhlinzeko ze-MLRA, iMithethonqubo emenezelwe lapha ngezansi kanye noma imigomo yemvume wumnikazi welungelo noma umnikazi wemvume noma umnikazi welayisense, abasebenzi bakhe (okungaba abaqashwe ngokugcwele noma okwesikhashana), osonkontileka, ama-ejenti, abeluleki noma ukapteni wesikebhe kungadala ukuqaliswa kwezinqubo zomthetho, okungabandakanya isigaba 28 sezinqubo kanye nezinqubo zobugebengu.

9 UKUTHOLAKALA KOLWAZI

- 9.1** Izicelo zokuthola ulwazi oluqondene namarekhodi ezinqubo zokwaba nezokudluliswa kwezinqubo kuzobhekanwa nazo ngokwezinqubo nezinhlizeko zoMthetho Wokuthuthaza Ukutholakala Kolwazi, 2000 (uMthetho No. 2 wezi-2000) kanye noMthetho Wokuvikela Ulwazi Lomuntu Siqu, 2013 (uMthetho No. 4 wezi-2013).
- 9.2** Amafomu okufaka isicelo kanye nezidingo zokutholakala kolwazi oluqondene namarekhodi ezinqubo zokwabiwa nokudluliswa kwezinqumo ezigcinwe wuMnyango atholakala Esikhungweni Sokusiza Amakhasimende, esiku-Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town, 8001. Ukuze uthole olunye ulwazi ngenqubo yokufaka isicelo sokutholakala kwamarekhodi oMnyango, umnyango ungathintwa ngenombolo yokusiza amakhasimende ku-086 000 3474 (Ucingo Olukhokhelwa Ngokuhlanganyela).

INGXENYE C: USUKU LOKUQALA NOKUBUYEKEZWA KWENQUBOMGOMO

10 USUKU LOKUQALA

Le nqubomgomo iyosebenza ngosuku olubhalwe wuNgqongqoshe kugazethi.

11 UKUQAPHA NOKUHLOLWA KWENQUBOMGOMO

- 11.1** Ukuze kuqinisekiswa ukusebenza kweNqubomgomo Ewujikelele: 2021 kanye neziNqubomgomo Eziqondene Nomboni yezokudoba ekubhekaneni nezidingo zomphakathi nezomnotho zomboni yezokudoba kanye nabadobi abathintekayo kanye nokugcineka ngokwemvelo kwezinsiza, uMnyango uzoqapha futhi uhlole inqubomgomo ngokuqalisa inqwaba yezindlela zokuhlola ukwenziwa komsebenzi ngokugcwele esikhathini seminyaka eyi-15. Kulindeleke ukuthi uMnyango ungase uqalise inqwaba yezindlela zokwenziwa komsebenzi lapho nangesikhathi kunesidingo.
- 11.2** Yize uMnyango uzophothula uhlelo ngqo oluqondene nendlelakuhlunga abanikazi bamalungelo abazolinganiswa ngayo emuva kokwabiwa kwamalungelo okudobela ukuhweba - kanye nangemuva kokubonisana nabanikazi bamalungelo - kungase kusetshenziswa izinhlelo ezihambisana nokusebenza ezibanzi:
- (a) Uguquko;
 - (b) Utshalomali; kanye

(c) Okudobekile kwezimiso zokungenelela ngemithetho nemithethonqubo esebenzayo.

- 11.3 Ucwangingo nokuqapha okuqhubekayo koMnyango nokwababambiqhaza kuzobamba iqhaza elikhulu ekuhlonzeni amagebe, ukusilela namaphutha kuzinqubomgomo nokuqaliswa kwayo.
- 11.4 UMnyango uzohlinzeka ngolwazi olubalulekile, olwethembekile nombiko ngesikhathi maqondana nokusebenza ngempumelelo kwezinqubomgomo kubo bonke ababambiqhaza abafanele.
- 11.5 Ngesikhathi somsebenzi wokukala umsebenzi, noma omuphi uMnikazi Welungelo otholakale ephule omunye wemigomo ekhishelwe iLungelo, angadala ukuba kuqaliswe inqubo yezomthetho, (engase ibandakanye ukuqaliswe kwesigaba 28 ngokwe-MLRA kanye/noma inqubo yamacala ezobugebengu).

ISIGINESHA YOKUGUNYAZA

(As English version Gazetted)

IGAMA: (Ms) B CREESY, MP

ISIKHUNDLA: UNGQONGQOSHE WEZAMAHLATHI, EZOKUDOBA NEZEMVELO