



9th Meeting of the Compliance Committee (CC9) and 12th Meeting of the Parties (MoP12)

Ebene, Mauritius, 25–27 June 2025 and 30 June – 04 July 2025

CC-09-04 / MoP-12-19

SIOFA IUU Vessels List

SIOFA Secretariat

Meeting	Compliance Committee ✓ Meeting of the Parties ✓
Document type	working paper ✓ information paper <input type="checkbox"/>
Distribution	Public <input type="checkbox"/> Restricted ¹ ✓ Closed session document ² <input type="checkbox"/>
Abstract	
<p>Pursuant to paragraphs 12 (a), 13 and 14 of CMM 06 (2024) on IUU Vessels List³, the CC09 shall;</p> <ul style="list-style-type: none">• consider the draft IUU Vessel List and include relevant vessels on a Provisional IUU vessel List, and submit it to the MoP 12 for approval, and;• Remove vessels on the Draft IUU vessel list pursuant to para 14 of CMM 06 (2024). <p><i>It is to be noted that the Secretariat did not receive any vessel to be included on the Draft SIOFA IUU vessels list for consideration by CC09.</i></p> <p>Further to the above, in accordance with paragraph 12 (b) of CMM 06 (2024), the CC09 is required to consider the current SIOFA IUU Vessel List and recommend to the MoP which vessels, if any, should be removed from it. Related to this, the CC09 and the MoP12 are welcome to note the following proposed modifications to the current SIOFA IUU Vessels list:</p> <ul style="list-style-type: none">• To consider the removal of the vessel El Shaddai from the SIOFA IUU Vessels list as requested by the vessel's flag state pursuant to paragraph 28 of CMM 06(2024). The request and other relevant details are included in Section 1 of this document.• Several modifications to the current SIOFA IUU vessels list to reflect the most up-to-date information related to a number of cross-listed vessels currently included on the SIOFA IUU Vessels List. These modifications are detailed in Section 2 of this document.• The inclusion of three (3) vessels, recently listed on the IUU vessels list of the <i>Indian Ocean Tuna Commission</i> (IOTC), on the SIOFA IUU Vessels list. The details of these vessels are also included in Section 3 of this document.	

¹ Restricted documents may contain confidential information. Please do not distribute restricted documents in any form without the explicit permission of the SIOFA Secretariat and the data owner(s)/provider(s).

² Documents available only to members invited to closed sessions.

³ [Conservation and Management Measure on the Listing of IUU Vessels \(IUU Vessel List\)](#)

Recommendations

- **Note** the absence of new vessels added to the Draft SIOFA IUU vessels list in 2025.
- For the **CC09** to **note** the request for the removal of the vessel El Shaddai from the current SIOFA IUU Vessels List and to advise the **MoP12** as necessary.
- For the **CC09** to **note** the proposed modifications to the current SIOFA IUU vessels list so that the most recent changes from other RFMOs are reflected therein, and **recommend** the adoption of these modifications to the **MoP12**.
- For the **CC09** to **note** the addition of three (3) new vessels on the *Indian Ocean Tuna Commission's* (IOTC) Vessels list, and **recommend** their inclusion on the SIOFA IUU vessels list by the **MoP12**, as cross-listed vessels.
- For the **MoP12** to **note** the above, and to **agree** on the recommendations of the CC09 pertaining to these modifications.

Section 1 – Request from the Republic of South Africa to remove the Fishing Vessel El Shadai from the Current SIOFA IU Vessels List

On the 19th of May 2025, the Republic of South Africa, through the Department of Forestry, Fisheries and the Environment (the Department), submitted a request to the Secretariat for the removal of the MFV El Shaddai from the SIOFA IUU Vessel List. In support of this request, the Department has provided the following documents:

- Signed letter addressed to Mr. Thierry Clot, SIOFA Executive Secretary
- Decision by the Director of Public Prosecutions (DPP) regarding El Shaddai
- Patagonian Toothfish Permit Conditions 2024/2025
- High Seas Licence Conditions 2024/2025
- Updated affidavit from Braxton Shipping regarding voyages of the El Shaddai (voyages 15, 17, 18, and 24)

These documents are attached in [Annex 1](#) for the consideration of the Compliance Committee (CC09) and the Meeting of the Parties (MoP12) in reviewing the request.

Section 2 – Proposed Modifications to the Current SIOFA IUU Vessels list

The following modifications are being proposed to the SIOFA's current IUU Vessels list to update the information related to a number of vessels currently cross-listed on it:

- **STS-50:** To update the flag to 'unknown' and add Togo in the column "previous flag(s)" to be consistent with CCAMLR's listing (the originating RFMO)
- **KIKI:** To include the name "Lisboa" as one of the previous name(s) and add 'Senegal' as the previous flag to be consistent with the vessel's 'previous information' available on the ICCAT website (the originating RFMO)
- **LUCAS:** To add 'Senegal' as the previous flag to be consistent with the vessel's 'previous information' available on the ICCAT website (the originating RFMO)
- **WAN TONG:** According to the NPFC, the vessel **WAN TONG** has been renamed **AN TON** and reflagged to the Comoros. As such, the updates to the vessel on the SIOFA IUU Vessels List will be as follows:
 - Name of the vessel: AN TON
 - Previous name of vessel: WAN TONG, ZHONG FU HAO 111, HUMBOLDT BAY
 - Flag: Comoros
 - Previous flags: Cameroon, Panama, Liberia
- **TRINITY:** Updating the list of previous names to be consistent with the previous names indicated by NEAFC (the originating RFMO). i.e.: Enxembre, Yucutan Basin, Fontenova, Jawhara.
- **Kuda Laut 03:** To include reference to the IOTC as one of the RFMOs that has cross-listed the vessel (April 2025)

Further to the above, a few typographical errors must be corrected in the SIOFA IUU vessel list. These are:

- **IMULA & SAMPATH:** to be corrected to "IMULA0867KLT & SAMPATH"
- **HEAVY SEA:** Need to add a space in the name of the former flag "Saint Kitts andNevis"
- **SOUTHERN STARS 136:** Need to add a space in the name of the former flag "St. Vincent and theGrenadines"
- **SAGE:** To correct the list of the latest known flags of the vessel SAGE (move from "Flag" to "former flags", to correct the list of the former flags to reflect information by the originating RFMO and to correct the originating RFMO. (From ICCAT to IATTC).

Section 3 – Cross Listing of Vessels from the Indian Ocean Commission’s IUU Vessels List

At its 29th Session, the Indian Ocean Tuna Commission (IOTC) added three (3) new vessels to its IUU Vessels list. These vessels are:

- IMUL-A-0168-PTM (Sri Lanka) - IOTC IUU No. 2025001;
- IMUL-A-0833-KLT (Sri Lanka) - IOTC IUU No. 2025002;
- IMUL-A-0892-KLT (Sri Lanka) - IOTC IUU No. 2025003;

The details of these vessels are available in Table 1 below.

Table 1

No.(IOTC IUU No)	Name and previous names, if any	Flag and previous flags, if any	Owner and previous owners, including beneficial owners, if any	Operator and previous operators, if any	Call sign and previous call signs, if any	IMO number, if any	Photographs where available	Date first included on the SIOFA IUU List	Summary of activities which justify inclusion of the vessel on the IUU Vessel List
2025001	IMUL-A- 0168-PTM	Sri Lanka	HSM FERNANDO	HSM FERNANDO and/et W.A.M. FERNANDO	Unknown	Unknown / none	Here	NA	Fishing in a coastal States waters without authorisation. Contravention of IOTC CMMs (e.g. Vessel registration and valid authorisation to fish/tranship and licence not presented, vessel not carrying documents detailing International callsign, marker buoys/floats not correctly marked and VMS not fully operational).

No.(IOTC IUU No)	Name and previous names, if any	Flag and previous flags, if any	Owner and previous owners, including beneficial owners, if any	Operator and previous operators, if any	Call sign and previous call signs, if any	IMO number, if any	Photographs where available	Date first included on the SIOFA IUU List	Summary of activities which justify inclusion of the vessel on the IUU Vessel List
2025002	IMUL-A-0833-KLT	Sri Lanka	MN UBEWARDHANA	MN UBEWARDHANA and E. MOHAN	Unknown	Unknown / none	Here	NA	Fishing in a coastal State without authorisation. Contravention of IOTC CMMs (e.g. Marker buoys/floats not correctly marked and VMS not fully operational)
2025003	IMUL-A-0892-KLT	Sri Lanka	BTTP JAYASOORIYA	BTTP JAYASOORIYA and MAHALINGAM MANOHARAN	4SF5790	Unknown / none	Here	NA	Fishing in coastal state waters without authorization. Contravention of IOTC CMMs (e.g. Documents detailing vessel horsepower, vessel registration and valid authorisation to fish/tranship and licence not presented, permit or authorisation to fish with terms and conditions attached not presented).

Annex 1 – List of Documents in Support of the Removal of Vessel El Shaddai on the SIOFA IUU Vessels list

RESTRICTED



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002 Tel: +27 12 399 9000, Fax: +27 86 625 1042

Reference: SIOFA2025
Enquiries: Sue Middleton
Tel: 021 4023911
Email: SMiddleton@dffe.gov.za

Thierry Clot
Executive secretary
SIOFA
13 Rue de Marseille
97420
Le Port
La Reunion

Per email: secretariat@siofa.org

Dear Mr Clot

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

Request

The Republic of South Africa, through the Department of Forestry, Fisheries and the Environment (Department) intends, at the 12th meeting of the parties (MoP12) and the 9th meeting of the Compliance Committee (CC09), to request that the MFV *El Shaddai* be removed from the SIOFA IUU Vessel List. The submissions below will form the basis of the request.



Batho pele- putting people first

The processing of personal information by the Department of Forestry, Fisheries and the Environment is done lawfully and not excessive to the purpose of processing in compliance with the POPI Act, any codes of conduct issued by the Information Regulator in terms of the POPI Act and / or relevant legislation providing appropriate security safeguards for the processing of personal information of others.

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

South Africa requests that this document is circulated to all members in advance. Should any member require clarity or further information prior to CC09, the Department would be pleased to provide this.

Background

The MFV *El Shaddai* is currently listed on the SIOFA IUU Fishing Vessel List, following alleged unlawful fishing in Southern Indian Ocean Fisheries Agreement (SIOFA) FAO 51 and CCAMLR closed areas.

When these transgressions came to the attention of the Department, the Department conducted a comprehensive investigation in respect thereof. The findings of this investigation were presented to the Director of Public Prosecutions (DPP) for a decision regarding the prosecution of Braxton Security Services CC (Braxton) as the owner of the vessel.

On 18 April 2023 the DPP advised the Department that it had decided not to prosecute Braxton. On 19 June 2023 the DPP provided his full and complete assessment of the evidence and shortcomings of the case. A copy is attached as **Appendix 1**.

In his decision not to prosecute, the DPP advised, amongst others, that the permit conditions attached to Braxton's Patagonian toothfish permit issued in terms of section 13 of the Marine Living Resources Act, 1998 (MLRA) did not clearly delineate where on the high seas Braxton was permitted to fish. In addition, it was stated that there were no conditions attached to Braxton's high seas vessel licence (issued in terms of section 41 of the MLRA) explaining the permissible and impermissible fishing areas.

CCAMLR 43, SCIC and Commissions Meetings

During October 2024, South Africa attended CCAMLR 43, SCIC and Commissions meetings where South African representatives provided an overview of the actions undertaken by South Africa in respect of the *El Shaddai*. South Africa formally requested and motivated for the removal of the said vessel from the CP-IUU Vessel List as per CM 10-06, paragraph (iv).

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

South Africa's motivation was based on the actions taken by the country following the decision not to prosecute Braxton due to unclear permit conditions relating to where the vessel was and was not permitted to fish. These actions included:

- Inclusion of a comprehensive set of permit conditions as part of the high seas fishing licences
- a complete review of the Patagonian toothfish permit conditions clearly stipulating applicable international measures including those under CCAMLR and SIOFA
- updating the Department's vessel monitoring system to specifically include RFMO boundaries, so that it could be immediately determined when a vessel might be fishing inside a closed area for example
- engagement with owners, rights holders and representatives of the *El Shaddai*, clearly explaining the nature of the contraventions and the seriousness of the conduct
- commitment to the amendment of the Marine Living Resources Act.

The above actions are further detailed as follows:

Licence and permit conditions

Amendments were made to the conditions of the high seas vessel licence in line with input received from CCAMLR members. These conditions, amongst others, make it clear where fishing can take place, where it cannot take place and where additional authorisations are required before such fishing can take place. A copy of these updated permit conditions is attached as **Appendix 2** and members are referred specifically to condition 2 which deals with fishing areas.

Conditions attached to Patagonian toothfish permits were likewise revised and enhanced. These permit conditions now specifically state that permit holders may not fish in any area which is subject to a RFMO /international agreement/ treaty, which is located outside of the PEI EEZ,(without following the relevant notification and other rules and measures of that body), even if part of that area is located within the PEI EEZ - in this instance the Permit Holder may only fish in that part of the area subject to a RFMO /international agreement/ treaty, which is located within the PEI EEZ. Links to available map services

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

have been incorporated. As with the licence conditions, feedback received from members of CCAMLR was considered in updating these conditions. A copy of these updated licence conditions is attached as **Appendix 3**.

Detection tools and awareness raising

The Department monitors the movement of vessels via VMS and on an electronic system, the Oceans and Coast Information Management System (OCIMS) which has been updated to specifically include RFMO boundaries, including those previously excluded like SIOFA FAO 51, so that vessels in these areas can be monitored by officials from the operations room.

These officials were also briefed and tasked to prioritise the monitoring of South African vessels operating with the CCAMLR and SIOFA areas of competence as well as other RFMO's. The importance of closely monitoring and reporting the movement of these vessels whilst in these areas has been strongly emphasised and reinforced.

South Africa has also visited the Norwegian Government Trade Fisheries Department during April 2024 and is currently cooperating to improve marine domain awareness to detect, address, deter and prevent IUU fishing and related activities.

Punitive action

The Department has, over the years, engaged extensively with the owners and representatives of the *El Shaddai*.

As members are aware the criminal prosecution avenue was unsuccessfully exhausted. Another option available to South Africa would have been to commence an administrative process to cancel or suspend Braxton's Patagonian toothfish right. This process was not undertaken as Braxton would have been able to raise the same concerns raised by the DPP in the criminal process and the decision by the Department would have been subject to the same vulnerabilities as identified by the DPP. Although this process was

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

not formally followed, since the IUU listing of the vessel until March 2025, the Department did not issue Braxton with a fishing permit to fish. This has, in effect, meant that Braxton's Patagonian toothfish right was suspended for some 4 years since its listing in 2021, which is one of the likely sanctions which would have been imposed had the administrative process been finalised as described above. In addition, Braxton was, and remains, unable to fish on behalf of other right holders for which it previously fished. These consequences of the IUU Vessel Listing caused Braxton to financially suffer harm over an extended period of time.

With this in mind, the Department requested Braxton to provide financial statements to explain their estimated financial losses caused by the IUU Vessel Listing. Braxton was specifically requested to provide financial statements for the period of the CCAMLR and SIOFA infringements accompanied by a signed and sworn affidavit explaining its financial statements and projected losses. The affidavit is also required to explain and consider profits from the sale of the Patagonian Toothfish sold during the specific CCAMLR and SIOFA infringements. A copy of this affidavit is attached as **Appendix 4**.

Amendment of the Marine Living Resources Act

The Department has embarked on a process to amend the Marine Living Resources Act, which is the primary legislation in South Africa which governs fishing. In this regard, the Department has been cooperating and engaging with international partners including the Food and Agricultural Organization (FAO).

Although this process has commenced, it is a lengthy process requiring Parliamentary approval and is therefore unlikely to be finalised soon. However, in this process, members comments made during CCAMLR 43 will be considered and appropriate references to relevant RFMOs and international laws will be included.

It should be noted that section 42 of the MLRA currently deals with the implementation of international conservation and management measures and subsection (4) thereof states that the Minister may from time to time publish by notice in the *Gazette* particulars of any international conservation and

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

management measures or international agreement concerning marine living resources. In addition, section 58(2)(a) of the MLRA makes it an offence to contravene any international conservation or management measures. As such there are currently express references in the MLRA to international agreements, However, these provisions will, as indicated above, be further clarified with specific reference to RFMOs.

South Africa satisfactorily addressed all parties concerns at CCAMLR, addressed the shortcomings identified by the DPP as set out above have been addressed as have concerns previously raised by members.

The conditions now clearly specify where fishing is and is not permitted and Braxton has been repeatedly advised of the nature of the non-compliance and seriousness of the contraventions, including correct interpretation of the relevant RFMOs, which makes future transgression unlikely to take place.

However, should there be a contravention of a conservation measure going forward, South Africa is of the view that the interpretational challenges faced by the DPP in the Braxton matter will not arise during prosecution and any other processes which may be instituted.

In addition, although Braxton was not criminally prosecuted and its Patagonian Toothfish right was not cancelled, the vessel has been out of operation since the IUU listing, rendering the owners unable to fish for itself or any other right holder, resulting in significant financial losses since 2021 and to date which ought to act as a strong deterrent to any repeated contravention.

The *El Shaddai* was subsequently delisted by consensus during the October 2024 CCAMLR Commission meeting.

At the recent IOTC Commission meeting held at La Réunion from Sun, 13/04/2025 - 09:00 to Thu, 17/04/2025 - 17:00, the Commission agreed not to list the vessel *El Shaddai*, given the information provided by South Africa, but would revisit the matter at the CoC in 2026.

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

In the light of the above, South Africa hereby request SIOFA to consider the removal of the *El Shaddai* from its IUU vessel list in terms of CMM 06 (2024) paragraphs 14 and 28 which provide as follows:

"14. The Compliance Committee shall remove a vessel from the Draft IUU Vessel List if is demonstrated, notably by the flag State, that:

- (a) the vessel did not engage in any of the IUU fishing described in paragraph 5; or
- (b) effective action has been taken in response to the IUU fishing in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity; and
- (c) the vessel is able to comply with all relevant and adopted SIOFA CMMs.

28. *A Contracting Party, CNCP, PFE and a non-Contracting Party with a vessel on the IUU Vessel List may request the removal of the vessel from the IUU Vessel List, including during the intersessional period, provided that the conditions stipulated in paragraph 14 are met and more specifically by submitting suitably documented information that:*

- (a) *it has adopted measures that will ensure that the vessel complies with all relevant and adopted CMMs; and*
- (b) *it is and will continue to assume effectively its responsibilities as regards the monitoring and control of the vessel's fishing activities in the Area; and either*
- (c) *it has taken effective action in response to the IUU fishing that resulted in the vessel's inclusion in the IUU Vessel List, including prosecution and imposition of sanctions of adequate severity; or*
- (d) *the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not participated in IUU fishing."*

In this regard it should be noted that South Africa as detailed above:

- has adopted measures that will ensure that the vessel complies with all relevant and applicable Conservation and Management Measures (CMMs) by amending conditions of the Patagonian Toothfish permits and adding conditions to the relevant high seas vessel licences to ensure that

SUBMISSIONS TO THE COMPLIANCE COMMITTEE OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT (SIOFA) FOR THE REMOVAL OF THE SOUTH AFRICAN FLAGGED MOTORISED FISHING VESSEL (MFV), *EL SHADDAI* REGISTRATION NO. N467 BELONGING TO BRAXTON SECURITY SERVICES CC FROM THE SIOFA ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING VESSEL LIST

the conditions are clear and unambiguous. Therefore, and should there be any contravention in the future the Department is confident that successful prosecution will ensue. In addition, the Department has embarked on an amendment process to further enhance the MLRA and in so doing provided added clarity on these issues in the MLRA itself;

- has and will continue to assume effectively its responsibilities as regards the monitoring and control of the vessel's movements in the SIOFA areas. In this regard South Africa reiterates that the OCIMS has been updated to specifically include areas subject to SIOFA; and
- has taken effective action in that although the prosecution did not result in a successful conviction, Braxton's Patagonian Toothfish right was effectively suspended for some four years by the Department's refusal to issue a permit to Braxton to exercise its right thereby causing a substantial loss of income to the company in an amount that is far more significant than any fine that could have been imposed during a criminal prosecution.

I trust that you will find the above in order. Should you have any further enquiries, please do not hesitate to contact me.

Yours sincerely



SUE MIDDLETON

DEPUTY DIRECTOR-GENERAL

DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES

BRANCH: FISHERIES MANAGEMENT

DATE: 19/05/2025



DIRECTOR OF PUBLIC PROSECUTIONS**Organised Crime Component: KwaZulu-Natal**

Tel: +27 31 334 5055 | 88 Joe Slovo Street, 5th floor
Southern Life Building, Durban, 4001
P/Bag X54342, Durban, 4001



National Prosecuting Authority
South Africa

Ref No: 10/3/5/1~~4~~ 7/22

Enquiries: Adv M. Naidu

19 June 2023

The Department of Environment,
Forestry and Fisheries
Branch Fisheries Management
Foretrust Building,
Cape Town

Attention: Mr Dino Govender

MAYDON WHARF CAS 160/08/2021

SIOFA / EL SHADDAI ENQUIRY

1. The aforementioned matter and previous correspondence herein refer.
2. I confirm as per my email dated 14 April 2023 that I have declined to prosecute the accused in the matter. Due to my substantial court commitments, I am grateful that you have afforded me the time to provide you with an assessment of my decision.
3. I must reiterate my thanks and appreciation for the cooperation that I received from the department officials with regards to this matter. My decision was based therefore on my assessment of the available evidence, my various engagements with department officials and an interpretation of the various legislation, regulations, permits and agreements. You may not necessarily agree with me, but my decision must take into consideration all aspects, even possible defences raised by the accused.

4. **AD COUNT 1 and 2** – Contravention of a conservation management measure outside of South African waters and contravention of a permit condition – Section 58(2)(a) and Section 58(1)(a)(ii).

4.1. The allegation that “South Africa therefore currently does not have access to fishery resources in the area subject to the Southern Indian Ocean Fisheries Agreement (SIOFA) as it is not a member state or participant” is with respect unsustainable for the following reasons:

- a) Article 8(4) of the Fish Stock Agreement provides that:
“Only those states which are members of such organisation or participants in such arrangements or which agree to apply the conservation of management established by such organisation or agreement shall have access to fishery resources to which these measures apply”.
- b) With reference to this, I have considered the agreement between SIOFA and CCAMLR dated 23 August 2018 which provides that SIOFA and CCAMLR will cooperate to advance their objectives particularly regarding stocks and species which are within the competence and or mutual interest of both parties.
- c) The areas of cooperation are clearly set out in clause 2 (ii): “Exchange data and scientific information in support of work and objectives of both participants, consistent with the information sharing policies of each participant including but not limited to information on:
 - (a) Vessel authorized to fish in accordance with Conservation and Management Measures adopted under the agreement and the conservation measures adopted under “CCAMLR” convention...”
- d) Accordingly, I am of the view that South Africa being a member and signatory to “CCAMLR”, the authorised International Conservation and Management Authority, it cannot be said therefore that the accused contravened a provision of an International Conservation and Management Measure inside or outside South African waters when it appears that the measures are the same for SIOFA and CCAMLR.

- 4.2. I have also considered Resolution 18/XXI which in my view confirmed that CCAMLR was established to conserve the marine living resources of the Antarctic marine ecosystem. CCAMLR is placed as the authorised body to oversee the establishment and the conservation of marine living resources of the entire Antarctic marine living resources in the ecosystem and SIOFA. Consequently, SIOFA it appears, was compelled to adopt the CCAMLR "International Conservation and management measure standard".
- 4.3. As at 20 October 2019, it appears that SIOFA had not enacted sufficient Conservation and Management Measures as was directed to do so as per "CCAMLR – 38/BG/45. My understanding therefore is that SIOFA failed to adopt a proper Conservation and Management Measure as at the date of the alleged contravention, that is, 30 April 2019 to 30 June 2019.
- 4.4. Further, of significance for consideration was that Braxton was issued with a High Seas licence for the relevant period. I have not been able to establish what conditions were attached, nor was the defence able to provide same to me upon my request to them. It appears that the licence was issued without any conditions attached and one is at a loss to determine what the rights, duties and obligations of the accused were in the absence of it being provided. One simply cannot aver that the accused should have been aware of what was expected of him. In a trial, the State would be expected to prove that the licence and/or conditions sets out with clarity what was expected of the accused. This is a definite shortcoming in the process of issuing the licence. One must also factor that Braxton did communicate with the department of its intention to fish in the high seas and a simple argument can be made out in court that if they intended to fish illegally, why would they inform the department. Further, the communication from the department back to Braxton on this issue was not instructive considering that the Department would have been aware if Braxton was NOT able to fish where it intended to do so.
5. The El Shaddai was listed on the CCAMLR list of authorised vessels, as per the Conservation Management Measure (CMM). The provision of the CMM for vessel authorisation and notification to fish, CMM 2019/07, obliged CCAMLR to submit

electronically a list of vessels operated in the agreement area, such agreement having been entered into on 28 August 2018.

6. Based on the absence of any restrictions or conditions imposed on the accused to fish on the high seas, the issue is whether an International Conservation and Management Measure was contravened. My understanding and/or interpretation is the following:
 - 6.1. There was no restriction on the fishing within the SIOFA area. The permit is for the “high seas”, which is defined in the act –
“Means the waters beyond South African waters but does not include waters subject to the particular jurisdiction of another state”.
 - 6.2. No requirement is contained in Section 58(2) of the act, to the effect that:
“... accused conducted fishing within the Southern Indian Ocean Fisheries Agreement (SIOFA), an International Conservation Management Organisation area of competence without a permit or authorisation to perform that activity”.
7. It is my further understanding that “International Conservation and Management Measure”, as required by section 58(2) had already been established by CCAMLR, which was complied with by the accused. The SIOFA “International Conservation and Management Measure” for Patagonian Toothfish appears to have been copied from CCAMLR and adopted since it did not have a satisfactory measure as is clear from the Resolution 18/XXI.
8. **AD COUNT 3 and 4** – Contravention of permit condition – Section 58(1)(a)(ii)
 - 8.1. The accused possessed a fishing vessel/licence for the high seas, for the period 2015.
 - 8.2. The accused possessed a fishing vessel/commercial license for the period 2015.
 - 8.3. The accused possessed a permit to undertake commercial long line fishing with its joint partners.
9. On an analysis of the above, a basic understanding and interpretation provides that the accused was permitted to fish in area 51, 58.6 and 58.7 and the high seas. It is not

clearly understandable and one is required to study the various documents related to the matter in an attempt to interpret same. The immediate consideration would be how a court would be able to hold an accused liable for a contravention which is not set out with any clarity.

10. The drafting of the relevant permits and conditions herein make for a complicated interpretation. Conservation Measure 32-02 (2017) permits fishing for Patagonian Toothfish on condition that:

“... prohibition of directed fishing subject to conditions indicated under ...1,2,5 thereof”.

Significantly, condition 5 states: “except for waters adjacent to the Prince Edward Islands” which means it extends to waters beyond the 200 nautical miles from the island baseline.

11. The permit condition makes reference to “This exemption is valid for only South African flagged vessels in South African waters within the Prince Edward Islands exclusive economic zone (PEI-EEZ). No fishing is permitted.

12. The above extract deals with an exemption. There is no reference to the word exemption in the permit conditions, nor is it defined. One cannot simply infer that the word utilised was incorrect and insert the word permit for a correct understanding of the document. It stands to reason therefore that the conditions are not properly set out. One must be alive to any argument brought by the defence which a court may find reasonable under the circumstances. One cannot rectify the incorrect reference to exemption.

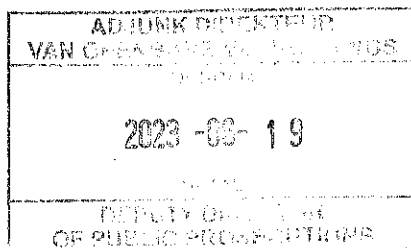
13. Further, also in terms of clear understanding of the rights, duties and obligations of an accused, I am given to understand that the EEZ “shall not extend beyond 200 nautical miles from the baseline. This is not set out with clarity in the permit conditions. There is also no adequate definition of what are the adjacent waters. It is my view that in order to hold an accused liable for any contravention, it must be clear and unambiguous with regards to his rights, duties and obligations. My assessment of the above is that it is open to more than one interpretation, and which has been raised with me by the defence.

14. Please do not hesitate to contact me should you require further clarification herein.

KD uwe nde

FOR: DIRECTOR OF PUBLIC PROSECUTIONS

KWAZULU-NATAL





Permit Conditions: Patagonian Toothfish Fishery

Fishing season: 2024/2025

DATE OF APPROVAL: 12 6 NOV 2024





forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Permit Conditions: Patagonian Toothfish Commercial Fishery

TABLE OF CONTENTS

1. GENERAL	1
2. VALIDITY OF PERMIT	2
3. FISHING AREAS	2
4. NOTIFICATIONS AND LANDING OF FISH	3-5
5. EFFORT LIMITATIONS AND GEAR RESTRICTIONS	5-8
6. CATCH CONTROLS AND LIMITATIONS	9-10
7. HANDLING OF OVER/UNDER CATCHES AND PROHIBITED FISH SPECIES	10
8. VESSEL SPECIFICATIONS	11
9. VESSEL MONITORING SYSTEM	13-14
10. SUBMISSION OF INFORMATION	14
11. RECORD KEEPING	15
12. LEVIES	16-17
13. NON-COMPLIANCE	17-18
14. CONSULTATION AND COMMUNICATION	18
15. OBSERVER PROGRAMME	18-20
16. PROCESSING AND SALE OF FISH	20
17. TRANSFER OF FISHING RIGHTS	20
18. TRANSPORTATION OF FISH	21
19. FISHING PERFORMANCE MEASURING	21
20. ECOSYSTEM EFFECTS OF FISHING	21-22
21. HIGH SEAS	22

1. GENERAL

- 1.1 This Permit is issued in terms of section 13 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (MLRA) and subject to the provisions of the –
- (a) General Policy on the Allocation and Management of Long-Term Commercial Fishing Rights, 2013;
 - (b) General Policy on the Allocation of Commercial fishing rights: 2021;
 - (c) Policy for the Allocation and Management of Commercial Fishing Rights of the Patagonian Toothfish Fishery: 2015; and
 - (d) Policy for the Transfer of Commercial Fishing Rights, 2009 (currently under review).
- 1.2 This Permit does not absolve the Permit Holder from complying with all other applicable laws, including but not limited to:
- (a) The National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA);
 - (b) the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
 - (c) the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);
 - (d) the Sea Birds and Seals Protection Act, 1973 (Act No. 46 of 1973);
 - (e) the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);
 - (f) the International Convention for the Prevention of Pollution from Ships Act, 1986 (Act No. 2 of 1986);
 - (g) the Firearms Control Act, 2000 (Act No. 60 of 2000);
 - (h) the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);
 - (i) the Animals Protection Act, 1962 (Act No. 71 of 1962) (and the Regulations promulgated thereunder);
 - (j) the Standards Act, 2008 (Act No. 8 of 2008);
 - (k) the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008)
 - (l) the National Ports Authority Act, 2005 (Act No. 12 of 2005);
 - (m) the Companies Act, 2008 (Act No. 71 of 2008);
 - (n) the Conservation Measures and Resolutions for the Commission for the



Conservation of Antarctic Marine Living Resources (CCAMLR); and

- (o) the Conservation Management Measures and Resolutions of the Southern Indian Ocean Fisheries Agreement (SIOFA); and
- (p) the conservation management measures and resolutions of any other relevant Regional Fisheries Management Organisations (RFMO), international agreement or treaty.

1.3 The Directors: Inshore Fisheries Management (D: IFM) and Offshore and High Seas Fisheries Management (D: OHSFM) are entitled to amend these permit conditions after consultation with the Permit Holder, save where an urgent amendment is required in which case the conditions may be amended in the absence of prior consultation.

1.4 Any reference to the Permit Holder in these Permit Conditions includes the entity or person in whose name the Permit has been issued and includes any employees (whether permanent or temporary), agents, contractors, divers or skippers of the Permit Holder.

1.5 A reference to the Right Holder in these permit conditions means the entity or person in whose name the long-term commercial fishing right was allocated by the Minister or the delegated authority.

2. VALIDITY OF PERMIT

2.1 This Permit is valid for the period indicated in validity period of Section A (the permit).

2.2 This Permit will automatically expire and be invalid should:

- (a) the right be cancelled or revoked in terms of section 28 of the MLRA;
- (b) the quantum allocated to the Permit Holder be caught;
- (c) the fishing season be terminated or end; or
- (d) this Permit be revoked or cancelled in terms of section 28 of the MLRA.

3. FISHING AREAS

3.1 The Permit Holder may only fish within the Prince Edward Islands' Exclusive Economic Zone (PEI-EEZ), excluding the area within 12 (twelve) nautical miles

from either Marion or Prince Edward Island, and between the two islands.

- 3.2 Fishing for Patagonian toothfish is permitted in the four restricted zones of the PEI-MPA and limited commercial fishing is permitted in a Controlled Area of the PEI-MPA as stipulated in the Regulations for the Management of the Prince Edward Islands Marine Protected Area, Government Gazette No. 36572, Vol. 576, 21 June 2013. No fishing is permitted in the sanctuary area. ¹ (Annexure A)
- 3.3 The Permit Holder **may not** fish in any area which is subject to a RFMO /international agreement/ treaty, which is located outside of the PEI EEZ, (without following the relevant notification and other rules and measures of that body), even if part of that area is located within the PEI EEZ - in this instance the Permit Holder may only fish in that part of the area subject to a RFMO /international agreement/ treaty, which is located within the PEI EEZ. ² Fishing outside of the PEI EEZ in the high seas is subject to the rules, measures, notifications and permissions provided for by any RFMO/internal agreement/treaty in that area, which the Permit Holder is obliged to familiarise itself with and comply with (Annexure B).
- 3.4 No fishing in the SIOFA area of competence is permitted. Annexure B.

4. NOTIFICATIONS AND LANDING OF FISH

- 4.1 The Permit Holder must inform the local Fishery Control Officer (FCO) (see Table 1) in writing at least 48 (forty eight) hours prior to the intended time of landing. This notification must include the following:
- (a) The vessel details;
 - (b) on behalf of which Rights Holder(s) the catch is to be allocated/ apportioned. The apportionment of a landing among Rights Holders can be adjusted retrospectively to balance catches with allocations. Such changes must be made in writing and submitted to the Department, clearly marked **Quota Reconciliation**;
 - (c) a Dissostichus catch document (DCD) required by Conservation Measure 10-05 (2022) which is created using the e-CDS and the catch should

¹ <https://mapservice.environment.gov.za/Coastal%20Viewer/> outlines the PEI Marine Protected Area and indicates the different zones. It may be considered together with the Regulations for the Management of the Prince Edward Islands Marine Protected Area, 2013 which details the coordinates.

² To view the CCAMLR sub areas, including their overlap with the PEI EEZ, please use <https://gis.ccamlr.org/>. To view the SIOFA areas of competence please use <https://siofa.org/>

correspond with the information recorded on the document; ;

- (d) the estimated time of intended arrival; and
- (e) the port of intended arrival.

4.2 Where fish were caught in an area subject to an RFMO, international agreement or treaty, any rules or obligations relating to the landing of such fish, issued by that body through a conservation management measure or otherwise, must be complied with.

4.3 The Permit Holder must notify the CCAMLR Secretariat: fax +09-61-3-6224 8744 or e-mail to data@ccamlr.org, and copy to Fisheries Management, Messer's Mqoqi and De Goede and DFFE operations rooms via e-mail (MMqoqi@dffe.gov.za; JDegoede@dffe.gov.za; and vmsops@dffe.gov.za), of the vessel's movements and in the format required in CM 10-04 Annex 10-04/A, i.e., entry into and exit from:

- (a) the PEI-EEZ;
- (b) the CCAMLR Convention Area; and
- (c) any movement between CCAMLR Statistical Subareas and/or Divisions.

4.4 The Permit Holder must notify the FCO prior to the vessel entering the harbour and before offloading by email and/or fax at the following numbers:

Table1. Dedicated harbours and compliance office contact details

Address	Contact	
<u>Cape Town Harbour</u> Fisheries Management Foretrust Building Cape Town	Tel:	021 402 3247/3427/3430/3361/3077
	Fax:	021 402 3113/3367
	Cell:	083 270 9775
	Email:	MMgqomo@dffe.gov.za
<u>Port Elizabeth Harbour</u> 21 Stanley Street Central P.E	Tel:	041 585 4051
	Fax:	041 585 0385
	Cell:	072 135 3382
	Email:	DMostert@dffe.gov.za NHoza@dffe.gov.za
<u>Durban Harbour</u>	Tel:	039- 3111240/30

MCS Compliance Durban	Fax: Cell: Email:	0393111326 0780124244 MNtshangase@dffe.gov.za
--------------------------	-------------------------	--

- 4.5 All fishing vessels carrying *Dissostichus* spp. may only enter the South African ports listed in Table 1 above and must be inspected by a fishery control officer.³
- 4.6 The Permit Holder must have a confirmed appointment for inspection and unloading in the presence of a FCO prior to entering the port. The inspection should be carried out in terms of CM 10-03(2024) and within 48 hours of entering the port. Port access for these vessels is permitted only on weekdays between 08h00 and 16h00, excluding weekends and public holidays. Refer to Table 1 above for approved ports and contact details.
- 4.7 Port entries are restricted to designated South African ports as per Table 1 above. The Delegated authority for these conditions may grant prior written authorisation to land at and / or enter a port which has not been designated. These entries may be considered under *force majeure* and vessel safety conditions.
- 4.8 The Permit Holder must ensure that all fish are discharged from the vessel in accordance with any instructions given by a Fishery Control Officer and in terms of CM 10-03 (2024)
- 4.9 The total catch of *Dissostichus eleginoides* landed after each voyage shall be documented in strict accordance with the provisions of CCAMLR Conservation Measure 10-05 (2022) and as attached Annex. 10-05/A.
- 4.10 The Permit Holder may not export fish landed unless the a *Dissostichus* Export Document (DED) in accordance with CCAMLR Conservation Measure 10-05 (2022) as well as an export permit in terms of Section 13 of the MLRA has been issued by the Department. No toothfish may leave the harbor on container vessels or via airport or road prior to these documents been issued.

³ CM10-03

- 4.11 The Permit Holder must keep a record of all fish landed, including the species; quantity, specific dates of the landing of such fish; catch area; relevant port where the fish was landed and fish sold. All C2 records as they were submitted to the CCAMLR Secretariat as required by CM 23-01 (2024) shall at all times be available for inspection by a FCO or authorised person.

5. **EFFORT LIMITATIONS AND GEAR RESTRICTIONS**

The Permit Holder may only utilise bottom set long lines.

- 5.1 **Line Weighting** Specifications from CCAMLR Conservation Measure 25-02 (2024) regarding the minimisation of the incidental mortality of seabirds in the course of longline fishing or longline fishing research in the CCAMLR Convention Area must be followed:

- (a) Vessels using auto line systems must add weights to the hook line or use integrated weight hook lines while deploying longlines. Integrated weight (IW) longlines of a minimum of 50 g/m or attachment to non-IW longlines of 5 kg weights at 50 to 60 m intervals are recommended.
- (b) Vessels using the Spanish method of longline fishing (double line) must release weights before line tension occurs; traditional weights of at least 8.5 kg mass shall be used, spaced at intervals of no more than 40 m, or traditional weights of at least 6 kg mass shall be used, spaced at intervals of no more than 20 m, or solid steel weights of at least 5 kg mass shall be used, spaced at intervals of no more than 40m.
- (c) Vessels using the trotline system exclusively (not a mix of trotlines and the Spanish system within the same longline) must deploy weights only at the distal end of the droppers in the trotline. Weights must be traditional weights (concrete weights or stones), of at least 6 kg or solid steel weights of at least 5 kg.
- (d) Vessels alternating between the use of the Spanish system and trotline method must use; for the Spanish system:
 - i. traditional weights of at least 8.5 kg total mass, spaced at intervals of no more than 40 m, or
 - ii. traditional weights of at least 6 kg mass spaced at intervals of no more than 20 m, or
 - iii. solid steel weights of at least 5 kg mass spaced at intervals of

no more than 40 m.

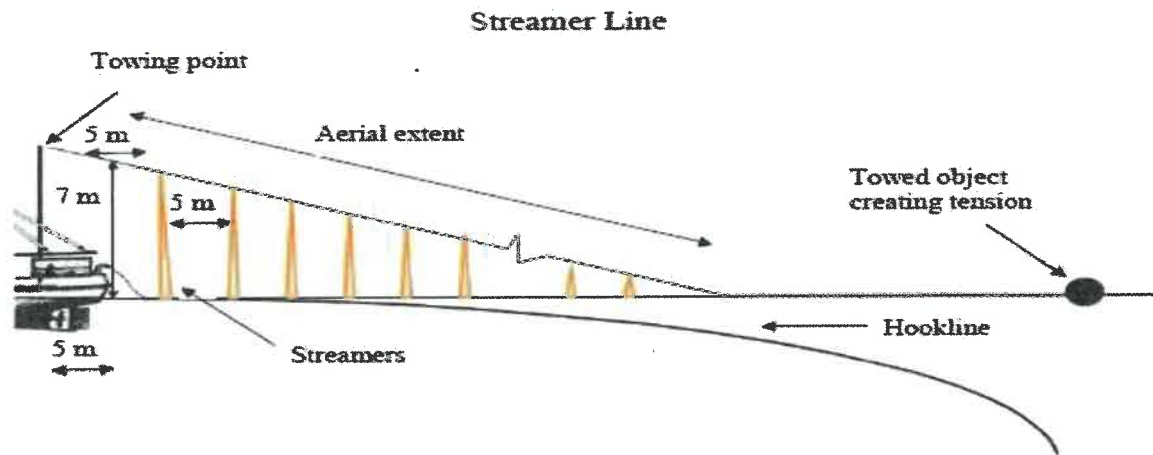
for the trotline method;

- i. line weighting shall be either 8.5 kg traditional weights, attached on the distal end of all droppers in the trotline at no more than 80 m intervals; or
- ii. 5 kg steel weights, attached on the distal end of all droppers in the trotline at no more than 80 m intervals.

5.2 **Streamer (tori) lines:** The following specifications from CCAMLR Conservation Measure 25-02 (2024) Annex 25-02/A must be followed:

- (a) The aerial extent of the streamer line, which is the part of the line supporting the streamers, is the effective seabird deterrent component of a streamer line. Vessels are encouraged to optimise the aerial extent and ensure that it protects the hookline as far astern of the vessel as possible, even in crosswinds.
- (b) The streamer line must be attached to the vessel such that it is suspended from a point as high as possible (a minimum of 7m) above the water at the stern on the windward side of the point where the hookline enters the water.
- (c) The streamer line shall be a minimum of 150 m in length and include an object (buoy, road cone or sea-anchor) towed at the seaward end to create tension to maximise aerial coverage. The object towed should be maintained directly behind the attachment point to the vessel such that in crosswinds the aerial extent of the streamer line is over the hookline.
- (d) Branched streamers, each comprising two strands of a minimum of 3 mm diameter brightly coloured plastic tubing or cord, shall be attached no more than 5 m apart commencing 5 m from the point of attachment of the streamer line to the vessel and thereafter along the aerial extent of the line. Streamer length shall range between minimums of 6.5 m from the stern to 1 m for the seaward end. When a streamer line is fully deployed, the branched streamers must reach the sea surface in the absence of wind and swell. Swivels or a similar device should be placed in the streamer line in such a way as to prevent streamers being twisted around the streamer line. Each branched streamer may also have a swivel or other device at its attachment point to the streamer line to prevent fouling individual streamers.
- (e) Vessels are encouraged to deploy a second streamer line such that streamer lines are towed from the point of attachment each side of the

hookline. The leeward streamer line should be of similar specifications (in order to avoid entanglement the leeward streamer line may need to be shorter) and deployed from the leeward side of the hookline.



- (f) Other variations in the line weighting regime or in the design of streamer lines may be tested on vessels carrying observers, providing that prior written approval is obtained from the Department.
- 5.3 In accordance with Conservation Measure 25-02(2024), (Paragraph 9) and ANNEX 25-02/B; a bird exclusion device (BED) designed to discourage birds from accessing baits during the hauling of longlines must be deployed.
- 5.4 A maximum of 50 (fifty) pots may be carried onboard the vessel at any one time, unless the Department has granted prior written permission for a pot-fishing experiment, in which case there will be no maximum limit to the number of pots.
- 5.5 The pots are to be deployed in a manner which isolates them from affecting the influence of the fish hooks, preferably at the beginning and end of the longline. The pot construction must include a biodegradable panel or biodegradable binding to mitigate against ghost fishing in the event of gear loss.
- 5.6 Patagonian toothfish vessel(s) may land for more than one Right Holder at any given time provided that such vessel has fishing permits for all the relevant Rights Holders on board the vessel at the time of the landing.

6. **CATCH CONTROLS AND LIMITATIONS**

- 6.1 The Permit Holder must conduct its fishing operations strictly in accordance but not limited to the latest Conservation Measures in force (<https://www.ccamlr.org/en/conservation-and-management/conservation-and-managment>)
- 6.2 The Permit Holder may only harvest the amount of the Patagonian Toothfish allocated to the Permit Holder in terms of the Total Allowable Catch (TAC) listed in Section A of the Permit.
- 6.3 The Permit Holder may not catch, take on board, store, transship, transport, sell, receive or process any fish caught by any means in contravention of the MLRA, the Regulations and these permit conditions.
- 6.4 Whilst the vessel is operating in terms of the provisions of this permit, fishing rights in any other sector may **not** be activated on the vessel, and it shall only target *Dissostichus eleginoides*, Patagonian toothfish.
- 6.5 Prior to the vessel's departure the Permit Holder must ensure that the pre-check as per list in Annexure C is conducted together with the observer. The checklist must be emailed MMgogi@dffe.gov.za and JdeGoede@dffe.gov.za.
- 6.6 For purposes of monitoring catches, a conversion factor estimated at the end of each five-day reporting period should be used for converting product (headed and gutted only) mass to green (whole) weight. Variations of standard product cuts (e.g. removal of belly meat from headed and gutted fish) require specific conversion factors, which must be reported in consultation with the Scientific Observer. All vessel masters, in co-operation with the observer, must ensure that conversion factors are calculated and applied for each five-day reporting period as per Annexure D and to copy to Fisheries Messrs De Goede, Durholtz and Somhlaba via e-mail to JdeGoede@dffe.gov.za; MDurholtz@dffe.gov.za and Sobahle Somhlaba SSomhlaba@dffe.gov.za.
- 6.7 With regard to by-catch of *Rajidae* spp. all live animals must be released and the total bycatch of *Rajidae* spp. should not exceed 5% of the Toothfish catch per trip.

With regard to by-catch of *Macrourus spp.* the total bycatch of *Macrourus spp.* should not exceed 16% of the Toothfish catch per trip. With regard to all other by-catch the total bycatch should not exceed 16% of the Toothfish catch per trip.

- 6.8 The dumping of *Dissostichus spp* (including fish with “jellymeat” or damaged e.g. due to sealice or depredation) is strictly prohibited.
- 6.9 The total number and weight of *Dissostichus eleginoides* exhibiting the “jellymeat” or damaged condition shall be recorded in the catch documentation.
- 6.10 Conservation Measure 41-01(2024) Annex 41-01/C, tagging programme for *Dissostichus spp.* must be complied with. *Dissostichus eleginoides* must be tagged and released at a rate of one toothfish per tonne of green (whole) weight catch throughout the season. In addition, the Permit Holder must ensure that the vessel achieves a minimum tag-overlap statistic of 60% see paragraph 2(iii) of Annex 41-01/C.

7. HANDLING OF OVER/UNDER CATCHES AND PROHIBITED SPECIES

- 7.1 In the event that the allocation of the Permit Holder is discovered to have been exceeded at the landing site upon return from the last fishing trip and verification by the FCO or Marine Resource Monitor, the excess may be transferred to another Right Holder by mutual agreement between the parties, provided the transferee has been issued with a valid permit, has not yet caught its full allocation and provided they have been fishing on the same day.
- 7.2 Should the Permit Holder exceed the allocated mass the excess amount will be automatically deducted from the following season's allocation.
- 7.3 In the event that the Permit Holder exceeds the allocated mass by more than 10%, in addition to the automatic deduction, legal proceedings may be initiated against the Permit Holder, including administrative proceedings in terms of section 28 of the MLRA and criminal proceedings, including in terms of section 58(2) of the MLRA.
- 7.4 In the event that the Permit Holder does not harvest its allocation in full, the Department will not consider any application for rollovers.

With regard to by-catch of *Macrourus spp.* the total bycatch of *Macrourus spp.* should not exceed 16% of the Toothfish catch per trip. With regard to all other by-catch the total bycatch should not exceed 16% of the Toothfish catch per trip.

- 6.8 The dumping of *Dissostichus spp* (including fish with “jellymeat” or damaged e.g. due to sealice or depredation) is strictly prohibited.
- 6.9 The total number and weight of *Dissostichus eleginoides* exhibiting the “jellymeat” or damaged condition shall be recorded in the catch documentation.
- 6.10 Conservation Measure 41-01(2024) Annex 41-01/C, tagging programme for *Dissostichus spp.* must be complied with. *Dissostichus eleginoides* must be tagged and released at a rate of one toothfish per tonne of green (whole) weight catch throughout the season. In addition, the Permit Holder must ensure that the vessel achieves a minimum tag-overlap statistic of 60% see paragraph 2(iii) of Annex 41-01/C.

7. HANDLING OF OVER/UNDER CATCHES AND PROHIBITED SPECIES

- 7.1 In the event that the allocation of the Permit Holder is discovered to have been exceeded at the landing site upon return from the last fishing trip and verification by the FCO or Marine Resource Monitor, the excess may be transferred to another Right Holder by mutual agreement between the parties, provided the transferee has been issued with a valid permit, has not yet caught its full allocation and provided they have been fishing on the same day.
- 7.2 Should the Permit Holder exceed the allocated mass the excess amount will be automatically deducted from the following season's allocation.
- 7.3 In the event that the Permit Holder exceeds the allocated mass by more than 10%, in addition to the automatic deduction, legal proceedings may be initiated against the Permit Holder, including administrative proceedings in terms of section 28 of the MLRA and criminal proceedings, including in terms of section 58(2) of the MLRA.
- 7.4 In the event that the Permit Holder does not harvest its allocation in full, the Department will not consider any application for rollovers.

8. VESSELS SPECIFICATIONS

- 8.1 The Permit Holder may not use any fishing vessel unless it bears the registration letters and numbers assigned thereto by the Director-General. Such letters and numbers must be painted in white on a black background, or in black on a white background, on both bows in characters not less than 15 cm in height, 10 cm in breadth (figure "1" excepted) and 2 cm in thickness (width of stroke). The space between adjacent letters and figures must be between 2 cm and 5 cm.
- 8.2 The Rights Holder must ensure that the vessel is clearly marked in accordance with the provisions of Regulation 77 of the General Regulations published in terms of the MLRA.
- 8.3 Vessels must be fitted with a mechanism (e.g. a chute or conveyor belt) to convey and dump offal on the side of the vessel opposite to that on which the lines are hauled.
- 8.4 In addition, vessel and fishing gear shall be marked in accordance with CCAMLR Conservation Measure 10-01 (2014) as follows:

Vessel markings

- (i) the vessel's name and International Radio Call Sign (IRCS) shall be marked on the vessel's side or superstructure, port and starboard; fixtures inclined at an angle to the vessel's side or superstructure would be considered as suitable provided that the angle of inclination would not prevent sighting of the sign from another vessel or from the air
- (ii) in addition, the vessel's IRCS shall be marked on a deck. Should an awning or other temporary cover be placed so as to obscure the mark on a deck, the awning or cover shall also be marked. These marks should be placed athwartships with the top of the numbers or letters towards the bow.

The marks shall:

- (i) be placed as high as possible above the waterline on both sides (such parts of the hull as the bow and the stern shall be avoided);
- (ii) be so placed that they are not obscured by the fishing gear whether it is stowed or in use;
- (iii) be clear of flow from scuppers or overboard discharges including areas which might be prone to damage or discolouration from the catch of certain

types of species;

not extend below the waterline.

Boats, skiffs and craft carried by the vessel for fishing operations shall bear the same mark as the vessel concerned.

- (iv) Marker buoys and similar objects floating on the surface and intended to indicate the location of fixed or set fishing gear shall be clearly marked at all times with the letter(s) and/or numbers of the vessels to which they belong.

The vessel markings required must meet the technical specifications as outlined in CM 10-01, Annex 10-01/A below:

Annex 10-01/A

Technical Specifications

1. Specifications of letters and numbers
 - i. block lettering and numbering shall be used throughout;
 - ii. the width of the letters and numbers shall be in proportion to the height as referred to in paragraph 1 (iii) of this annex;
 - iii. the height (h) of the letters and numbers shall be:
 - a. a minimum of 1 meter for the IRCS, to be placed on the hull, superstructure and/or inclined surfaces; and
 - b. for marks to be placed on deck: the height shall not be less than 0.3 meter.
 - iv. the length of the hyphen shall be half the height of the letters and numbers
 - v. the width of the stroke for all letters, numbers and the hyphen shall be $h/6$;
 - vi. spacing:
 - a. the space between letters and/or numbers shall not exceed $h/4$ nor be less than $h/6$;
 - b. the space between adjacent letters having sloping sides (e.g. A V) shall not exceed $h/8$ nor be less than $h/10$.
2. Painting
 - i. the marks shall be:
 - a. white on a black background;
 - b. black on a white background; or
 - c. any colour that contrasts with the background so that the markings are clearly visible.

- ii. the background shall extend to provide a border around the mark of not less than $h/6$;
- iii. good quality marine paints to be used throughout;
- iv. the use of retro-reflective or heat-generating substances shall be accepted, provided that the mark meets the requirements of these technical specifications
- v. the marks and the background shall be maintained in good condition at all times.

9. **VESSEL MONITORING SYSTEM (VMS)**

- 9.1 The Permit Holder's nominated fishing vessel must be fitted with a functional vessel monitoring system (VMS) in accordance with CCAMLR Conservation Measure 10-04 (2022) and VMS reporting should be confirmed by the Department prior to the vessel leaving port. Approval may be obtained via email by contacting VMSops@dffe.gov.za.
- 9.2 It is the responsibility of the Permit Holder to ensure that the VMS is fully operational and that the VMS continues to transmit to the Department's Operations Room as per CM 10-04 (2022) requirements. The Permit Holder must establish that the VMS unit is functional by contacting the **Operations Room** at the Branch: Fisheries Management during office hours on telephone numbers **+27 21 402-3076** or **+27 21 402-3077**, or via email VMSops@dffe.gov.za prior to sailing.
- 9.3 Whilst at sea, the VMS must report continuously and uninterruptedly on an hourly basis to the Operations Room.. Should the power supply to the VMS be interrupted or the equipment become unoperational for any reason whatsoever and the problem persists, the vessel must commence its return to port within 24 (twenty-four) hours of becoming aware of the problem; unless special arrangements have been made with the Department's **Operations Room** to allow the vessel to continue fishing. Such special arrangements must be confirmed in writing and must include:
- i. hourly reporting of the vessel's position e-mailed to VMSops@dffe.gov.za and ccamlr@ccamlr.org;
 - ii. the format of the manual VMS reports must include the following: Date, Time (UTC), latitude, longitude degrees minutes and decimal minutes e.g

36°32.786'S, Course (true) and Speed (Knots);

- iii. the report must be sent once a day (every 24 hours) containing eight reports in the prescribed format;
- iv. notice of estimated time of arrival;
- v. notice of port of arrival;
- vi. inspection of the catch by a FCO/Monitor within 48h of entering port as per CM 10-03 (2024); and
- vii. a copy of the vessel track for the voyage for verification purposes.

9.4 The Department will keep a record of the frequency of VMS breakdowns in order to discourage repeated use/ abuse of this special arrangements dispensation.

9.5 Whilst alongside in port vessels wishing to switch off their VMS units, may only do so for a maximum of six (6) hours prior to their estimated time of departure from port. A vessel should ensure with VMSops VMSops@dffe.gov.za the VMS is reporting prior to leaving port.

9.6 In addition to conditions 9.1. – 9.5 above, the Permit Holder must ensure that the vessel is fitted with a fully functional Automatic Identification System (AIS) and keep it switched on at all times as per CM 10-02 (2022) when in the CCAMLR Convention Area as well as when in the SA EEZ, PEMI-EEZ, SIOFA areas and the High Seas for the prevention of collision between vessels, except for when the operation of AIS might compromise the safety or security of the vessel or where security incidents are imminent.

9.7 The Permit Holder must ensure that when traversing any area which is subject to a regional fisheries management organisation, international agreement or treaty, comply with any relevant conservation management measure relating to AIS or VMS reporting.

9.8 Should the Permit Holder not adhere to the provisions of the above, the Department may detain the vessel once in port and, amongst others, implement proceedings under section 28 of the MLRA.

10 SUBMISSION OF INFORMATION

10.1 The Permit Holder must submit to the Department:



10.1.1 notification of any change of contact details within 3 days of such change by completing the application form available at the Customer Services Centre; and

10.1.2 performance statistics as stipulated in paragraph 20.

10.2 The information required in terms of paragraph 10/1 must be submitted as follows: Right Holder Information, Attention: Director: Offshore and High Seas Fisheries Management, Customer Services Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town or PrivateBag X2, Roggebaai, 8012.

10.3 Catch Statistics:

10.3.1 As per paragraph three (3) of Conservation Measure 23-01 (2024) the vessel must submit catch and effort reports directly to the CCAMLR Secretariat: fax +09-61- 3-6224 8744 or e-mail to data@ccamlr.org as well as a copy to Fisheries Messrs De Goede, Durholtz and Somhlaba via e-mail to JdeGoede@dfre.gov.za; MDurholtz@dfre.gov.za and Sobahle Somhlaba SSomhlaba@dfre.gov.za

10.3.2 Details of the catch, effort and biological data must be rendered as stipulated by CCAMLR Conservation Measures 23-01(2024), 23-03(2016) and 23-04(2016). These require the reporting of Five-Day Catch and Effort Data in accordance with Measures 23-01(2024) and reporting monthly in accordance with Measure, 23-03(2016) and 23-04 (2016) the reporting of Fine-Scale Catch and Effort Data.

10.4 Socio-Economic Information

10.4.1 The Permit Holder must, on request, provide any economic, socio-economic or financial information in the format requested by the Department.

11 **RECORD KEEPING**

11.1 The Permit Holder shall store at its registered place of business the original permit(s) issued to it over the duration of the right. The Permit Holder shall at all times have available a true certified copy of this permit(s) on board the vessel utilised to harvest Patagonian Toothfish.

11.2 The Permit Holder must keep the second copy of all landings for a minimum period

of five (5) years.

12 **LEVIES**

- 12.1 The Permit Holder must submit a levy declaration form by the last working day of the month following the harvesting periods stated below in paragraph 12.2.
- 12.2 The Permit Holder must pay the prescribed levies for the fish landed for prescribed species as stipulated in the Government Gazette No.33518 published on 10 September 2010.
- 12.3 All levies and fees must be paid monthly in arrears and by the last working day of the month following the harvesting period/ fishing season 1 December 2024 to 30 November 2025.
- 12.4 The Permit Holder must submit, together with all levy payments, a levy declaration form.
- 12.5 Non-compliance with conditions 12.4 and 12.2 will result in a 10% penalty being charged on the late submission of the prescribed levy declaration form.
- 12.6 It is the responsibility of the Permit Holder to ensure that levies are submitted as stated in par. 12.1 above and that his/her account is paid up in full.
- 12.7 The Department may refuse to issue fishing permits to Rights Holders who have any levies or fees outstanding for a period in excess of 30 days, or may suspend the Right Holder's fishing permit until all outstanding levies have been paid to the Department.
- 12.8 A "NIL" return must be submitted for every month where no fish have been landed.
- 12.9 All declarations forms must be submitted to the Directorate: Revenue Management by any of the following:
- 12.9.1 Electronic mail – Revenue revenue@dffe.gov.za
- 12.9.2 Postage – Private Bag x2, Vlaeberg, 8018
- 12.9.3 By hand – Department of Agriculture, Forestry and Fisheries, Branch: Fisheries Management, Customer Service Centre, Ground Floor, Martin Hammerschlag Way,



Foretrust Building, Foreshore, 8001.

12.9.4 Enquiries can be directed to Sgaziwana@dffe.gov.za.

12.10 The information required in condition 12.4 shall be submitted when paying levies to the cashier at the Department of Forestry, Fisheries and the Environment, Branch: Fisheries Management, Customer Service Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town. Alternatively, payment can be made via direct deposit at any First National Bank (FNB) branch or Electronic Funds Transfer (EFT) to the following banking details:

Branch code – 210554

Account name – Marine Living Resources Fund

Account number – 62123256382

Deposit reference -

The Permit Holder must use its Customer (Party) Number as a deposit reference.

The Permit Holder must ensure that proof of the payment together with a levy declaration is email to revenue@dffe.gov.za.

13 NON-COMPLIANCE

13.1 A breach of the provisions of the MLRA, its regulations, any treaty / international agreement or RFMO conservation or management measure and/ or these permit conditions by the Permit Holder may result in the initiation of legal proceedings (which may include section 28 proceedings and/ or criminal proceedings including in terms of section 58 of the MLRA).

13.2 The Permit Holder may not land, sell, receive or process any fish caught/ acquired by any means in contravention of the MLRA and applicable laws.

13.3 The Permit Holder may not discard any waste material, garbage or pollutants into the sea, harbour or landing site. The Permit Holder must safely store all waste material, garbage and pollutants on board the vessel.

13.4 No transshipment is permitted without prior written approval of the Department. If a Permit Holder transships without the necessary authorisation, Should transshipment be authorised, it must be carried out in accordance with CM 10-09

(2022). Such request must be submitted to the D: OHSFM (Mandisile Mqoqi MMmqoqi@dfre.gov.za) as well as the Secretariat (CCAMLR ccamlr@ccamlr.org) at least 72 hours in advance if the vessel intends to tranship within the CCAMLR Convention Area.

13.5 The Permit Holder must safely store all inorganic waste material, garbage and pollutants on board the vessel.

13.6 Failure to report any contravention of the provisions of the MLRA by a Permit Holder or other person is a criminal offence. Any contravention must immediately be reported to the Customer Service Centre at cscenquiries@dfre.gov.za, for attention: The Chief Director: Monitoring, Control and Surveillance (MCS).

13.7 The Department may refuse to issue a subsequent permit should the conditions stipulated in this permit not be adhered to.

14 CONSULTATION AND COMMUNICATION

14.1 The Department will prefer to consult and communicate with the Recognised Industrial Bodies for the sector, which is currently the South African Patagonian Toothfish Industry Association.

14.2 Communication regarding all permits and licences shall be addressed to the Department's Customer Service Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town. The Customer Service Centre may be contacted on 086 000 3474.

14.3 The Chief Director: Marine Resources Management will consult with Rights Holders when conducting performance reviews to determine further criteria against which Permit Holders will be measured.

15 OBSERVER PROGRAMME

15.1 The Permit Holder must carry onboard two (2) Scientific Observers in accordance with the CCAMLR Scheme for International Scientific Observation.

15.2 The Department is obliged by CCAMLR to achieve 100% Observer coverage in this fishery.



- 15.3 At least five (5) days before the vessel departs from Port, the Permit Holder must request, from the preferred Observer Company, the deployment of observers.
- 15.4 The Permit Holder shall bear the costs of the observer deployment.
- 15.5 The Observers must be fully accommodated on board the vessel and provided with food and facilities as detailed below.
- 15.6 The Permit Holder must allow the Observer unrestricted access to monitor fishing activity and compliance with permit conditions and all applicable laws and international instruments.
- 15.7 The Observer is responsible for verifying fisheries data and must conduct his/ her tasks in accordance with the CCAMLR Scheme of International Scientific Observation.
- 15.8 To promote the Department's objectives and in accordance with the CCAMLR Scheme of International Scientific Observation, Scientific Observers shall operate in accordance with the following arrangements:
- 15.8.1 The Scientific Observer shall be given the status of a ship's officer. Accommodation and meals for Scientific Observers on board shall be of a standard commensurate with this status;
- 15.8.2 Permit Holders must ensure that their vessel operators cooperate fully with the Scientific Observers to enable them to carry out the tasks assigned to them by the Department and/ or CCAMLR Scientific Committee;
- 15.8.3 Permit Holders shall take appropriate action on board their vessels to ensure the security and welfare of Scientific Observers in the performance of their duties; provide them with medical care and safeguard their freedom and dignity;
- 15.8.4 The Permit Holder must ensure that the necessary arrangements are in place to enable messages to be sent and received by Scientific Observers using the vessel's communications equipment and operator;
- 15.8.5 Arrangements involving the transportation and boarding of Scientific Observers shall be organised so as to minimize interference with harvesting and/ or research operations;
- 15.8.6 Scientific Observers must provide to the Master of the vessel copies of such



- records, prepared by the Scientific Observers, as the Master may wish to retain;
- 15.8.7 Transportation of Scientific Observers to and from boarding points, when boarding in Cape Town, shall be the responsibility of the designated Observer Service Provider. Transportation to and from any other boarding point other than Cape Town shall be the responsibility of the Permit Holder;
- 15.8.8 Unless otherwise stipulated, the equipment, clothing and at-sea costs of a Scientific Observer shall be borne on a cost-recovery basis as part of a stipulated contract between the Permit Holder and the Observer Service Provider providing the Observer. The Permit Holder shall bear the costs of on board accommodation and meals of the Scientific Observer;
- 15.8.9 The Permit Holder shall be responsible to pay the agreed remuneration of the Scientific Observer per day at sea. Additional remuneration shall be provided for a further four days on shore on completion of the voyage to facilitate data capture. A schedule of payment should be agreed between the designated Observer Service Provider and the Permit Holder before the Observer assumes his/ her duties;
- 15.9 Should the Department reasonably believe that an Observer is being prevented from carrying out his/her obligations in any way or threatened in any way while on board, the Department may implement proceedings under section 28 of the MLRA.
- 16 PROCESSING AND SALE OF FISH**
- 16.1 Refer to paragraph 4.10 for the sale and export of Patagonian toothfish.
- 17 TRANSFER OF FISHING RIGHTS**
- 17.1 The Right Holder may only transfer the long-term commercial fishing right allocated to it in terms of section 21 of the MLRA read together with the Policy for the Transfer of Commercial Fishing Rights (Gazette No 51499).
- 17.2 Any transfer of shares or sale of shares and/ or membership interest that results in a change in control or ownership of the Rights Holder must be approved by the Department in terms of section 21 of the MLRA.
- 17.3 Failing to comply with 17.1 and/or 17.2 may lead to the initiation of further legal proceedings including but not limited to proceedings in terms of section 28 of the MLRA.

18 TRANSPORTATION OF FISH

18.1 Not Applicable.

19 FISHING PERFORMANCE MEASURING

19.1 The Right Holder is obliged to provide the Department with information required to carry out a performance measuring exercise, which information must include, but is not limited to:

- (a) Data regarding transformation levels;
- (b) Sustainable fishing practices;
- (c) Data regarding investments made in the fishery and jobs created and sustained; and
- (d) Data regarding compliance initiatives.

20 ECOSYSTEM EFFECTS OF FISHING

20.1 The Right Holder must take cognisance of sustainable fishing practices and of the impacts of longlining on the ecosystem (see also paragraph 5.2 and 5.3). In this regard, steps should be taken to minimise fishing mortality on seabirds and other by-catch species, and to minimise other ecosystem impacts such as ghost fishing.

20.2 Minimise seabird mortality:

- (a) All provisions and requirements set out in CCAMLR Conservation Measure 25-02 apply and must be strictly adhered to by the Permit Holder. Offal shall not be discharged during setting. Any such discharge during hauling operations shall take place only on the opposite side of the vessel to that where longlines are hauled.
- (b) Fishing operations shall be conducted in such a way that hooklines (defined as the groundline or mainline to which the baited hooks are attached by snoods) sink beyond the reach of seabirds as soon as possible after they are put in the water. Specifications of the line weighting are given in paragraph 5.2 of this permit.
- (c) The Permit Holder must ensure that the vessel has a streamer line (tori line) onboard. The streamer line/s shall be deployed during longline setting to deter birds from approaching the hookline. Specifications of the streamer

line and its method of deployment are given in paragraph 5.3 of this permit.

- (d) The Permit Holder must make every effort to ensure that birds captured alive during longlining are released alive and that wherever possible hooks are removed without jeopardizing the life of the bird concerned.
- (e) All banded birds killed must be retained whole (frozen or on ice) and returned to port. Other birds killed must be retained, either whole (preferable) or heads and feet (the heads and feet from each bird to be tied together) and returned to port. On landing the birds must be handed over to the FCO. Information contained on bands recovered from seabirds must be reported to: **Central Data Bank for Antarctic Bird Banding, SAFRING, University of Cape Town, Rondebosch, 7701, South Africa; or faxed to: (021) 689 7578.**

20.3 Fisheries Management Areas

- (a) The Department intends to declare fisheries management areas in the future.

20.4 Vulnerable Marine Ecosystems (VMEs)

- (a) The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) has developed Conservation Measures to deal with the impacts of bottom fishing on the benthos, in particular VMEs. Conservation Measures 22-06 (2019) and 22-07 (2013) seek to address practical ways of dealing with encountering VMEs. Monitoring of VMEs according to Conservation Measures 22-07 (2013) should be implemented to the extent possible and mid-point positions of line segments must be provided to the observer as they require for random sampling and reporting of triggered segments. It is the responsibility of the vessel, in accordance with the above Conservation Measures to record the number and weight of VME indicator units for each line segment, (including a nil result) and retain and report the to the observer any triggered segments for sampling.

21 **HIGH SEAS**

- 21.1 Where this Permit is being utilised in conjunction with a High Seas Vessel Licence, the Permit Conditions apply equally to activities undertaken on the High Seas.
- 21.2 Where fishing is undertaken in an area that is subject to any regional fisheries management organisation (RFMO)/international agreement/treaty, all requirements

of that relevant body/organisation must be complied with and the Permit Holder is expected to familiarise itself with rules and measures of such bodies/ organisations including whether notification must be provided prior to fishing in a particular area.

- 21.3 In addition to condition 21.2, prior notification must be submitted to the relevant Secretariat and to the Department at VMSops VMSops@dffe.gov.za prior to the vessel entering the relevant RFMO/ international agreement/ treaty area.



A handwritten signature in black ink, consisting of stylized, overlapping letters.

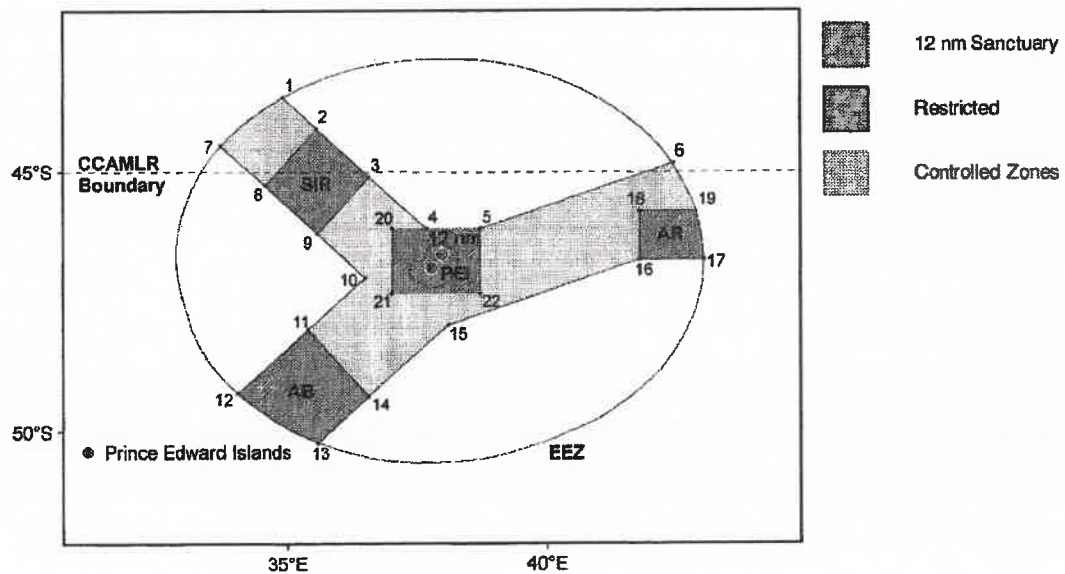
ANNEXURE A

STAATSKOERANT, 21 JUNIE 2013

No. 36572 9

ANNEXURE 1

The Prince Edward Islands Marine Protected Area and its zonation



- 12 nm Sanctuary: Means an area extending 12 nautical miles seaward from the high-water mark around the islands. No fishing is permitted in the Sanctuary area.
- Restricted Zone: Means an area within the Marine Protected Area where fishing for Toothfish is capped at levels of legal fishing effort in terms of annual numbers of hooks for each zone as detailed below is permitted
- Controlled Zone: Means an area within the Marine Protected Area where fishing is permitted.

Legal Fishing effort for toothfish in the restricted areas in terms of the maximum number of hooks that may be set annually in each of the restricted areas subject to an overall annual limit of 1,044,213 hooks for all restricted areas combined

Restricted Area name	Annual allowable maximum effort in hooks per restricted area
PEIs	650,000 hooks
AR	450,000 hooks
SIR	250,000 hooks
AB	0 hooks (not to be fished at all)

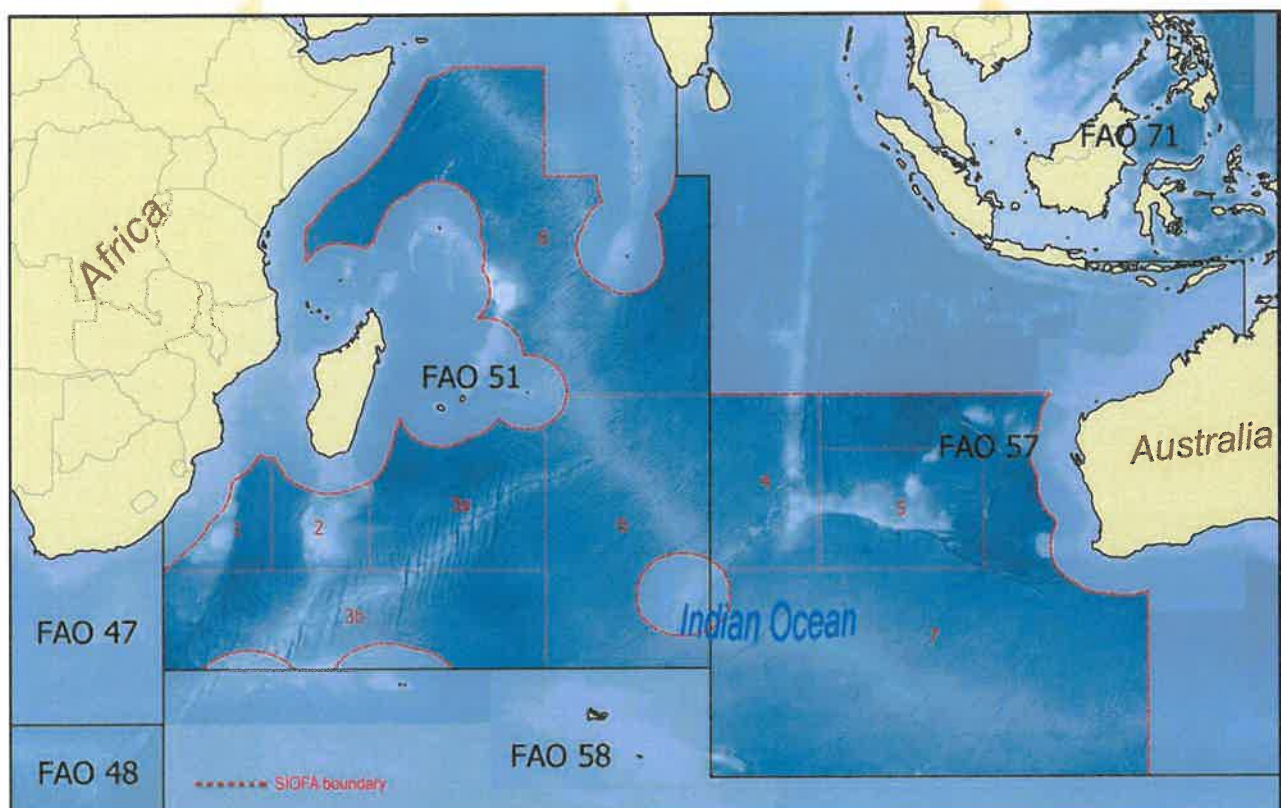
The exact geographic coordinates of the Prince Edward Islands Marine Protected Area and its different zones are indicated hereunder. Points 1-22 refer to Annexure 1.

Point	South Latitude		East Longitude		Point	South Latitude		East Longitude	
	Degrees	Minutes	Degrees	Minutes		Degrees	Minutes	Degrees	Minutes
1	43	34	34	56	12	49	16	34	3
2	44	10	35	35	13	50	14	35	36
3	45	6	36	36	14	49	20	36	35
4	46	6	37	42	15	47	57	38	7
5	46	6	38	44	16	46	42	41	48
6	44	50	42	27	17	46	42	43	2
7	44	30	33	44	18	45	46	41	48
8	45	16	34	35	19	45	46	42	53
9	46	12	35	36	20	46	6	37	3
10	47	3	36	31	21	47	21	37	3
11	48	2	35	25	22	47	21	38	44



ANNEXURE B

SIOFA boundaries:



ANNEXURE C

	<u>YES</u>	<u>NO</u>
<u>Captain/ Fishing Master / Permit Holder / Authorised Representative pre-trip checks together with observer:</u>		
Confirmation that at least one streamer line is on board and all measurements, and the attachment point meet the requirements of Conservation Measure 25-02(2024) and that sufficient materials are on board to construct further streamer lines;		
The line weights of vessels using the Spanish method of longline fishing, complies with paragraph 3 of Conservation Measure 25-02(2024);		
The line weights of vessels using the trotline method of longline fishing comply with paragraph 4 of Conservation Measure 25-02(2024); and		
If a combination of Spanish and Trotline methods are used either as separate sets or within a combined set then paragraph 3 of Conservation Measure 25-05 shall apply;		
A valid <i>Dissostichus</i> Catch Document is on board		
A landing net suitable for bringing on board fish identified for tagging is available. The net construction must be designed to remove any tension on the hook and snood in the fish's mouth on-board.		
The checklist emailed to MMqoqi@dffe.gov.za and JdeGoede@dffe.gov.za		
Observer comments:		
Observer Name and signature:		
Captain/ Fishing Master /Authorised / Permit Holder / Representative comments:		
Captain or Fishing Master / Permit Holder or Authorised Representative name and signature:		
Date:		

ANNEXURE D

CONVERSION FACTORS

The conversion factor is a numerical value used to estimate the green weight (original weight) from fish products (e.g. headed and gutted, gutted, etc.). Conversion factors represent the relationship between the weight of a fish in its original (whole) form and its processed state. For example, if a fish is headed and gutted and loses 30% of its weight, the conversion factor is used to estimate the whole weight from the headed and gutted weight would be approximately **1.43**. The whole Weight = Gutted Weight × 1.43

Calculating a Conversion Factor for Fish Mass Determination

To calculate a conversion factor for fish mass, follow these steps:

1. Define the Processed Product Type

- Identify the forms of the fish mass you are comparing, e.g., whole weight to headed and gutted weight (HGT), whole weight to fillet weight, etc.

2. Collect your randomly selected fish for the Sample Data

- Measure the weights of **each fish** before and after processing using the same scale i.e. motion compensated scale.
Example:
 - Record the **whole weight** (unprocessed weight) for the fish currently sampled.
 - Then, for the same fish record its **processed weight** (e.g., HGT, filleted, etc.).
- Ensure you have a representative sample size (e.g., 30 fish) to account for variability across individual specimens.

3. Calculate Individual fish Conversion Factors

- Use the formula:
Conversion Factor (CF) = Whole Weight (Original Form) / Processed Weight (e.g. HGT)
- Example:
If the whole weight of a fish is 9.658 kg and the HGT weight for that fish is 5.698 kg, then the CF = 9.658 kg / 5.698 kg = 1.695

4. Determine the Average Conversion Factor

- For a sample size of n (number of fish) fish, calculate the average conversion factor:
Average CF = $\sum(\text{CF for each fish}) / n$
- Example:
For 3 fish with conversion factors of 1.25, 1.28, and 1.27 then:
The Average CF = $(1.25 + 1.28 + 1.27) / 3 = 1.267$

Example in Practice

If a fishery reports 1,000 kilograms of HGT Toothfish, and the established conversion factor for HGT Toothfish is 1.667, then the estimated whole weight is:

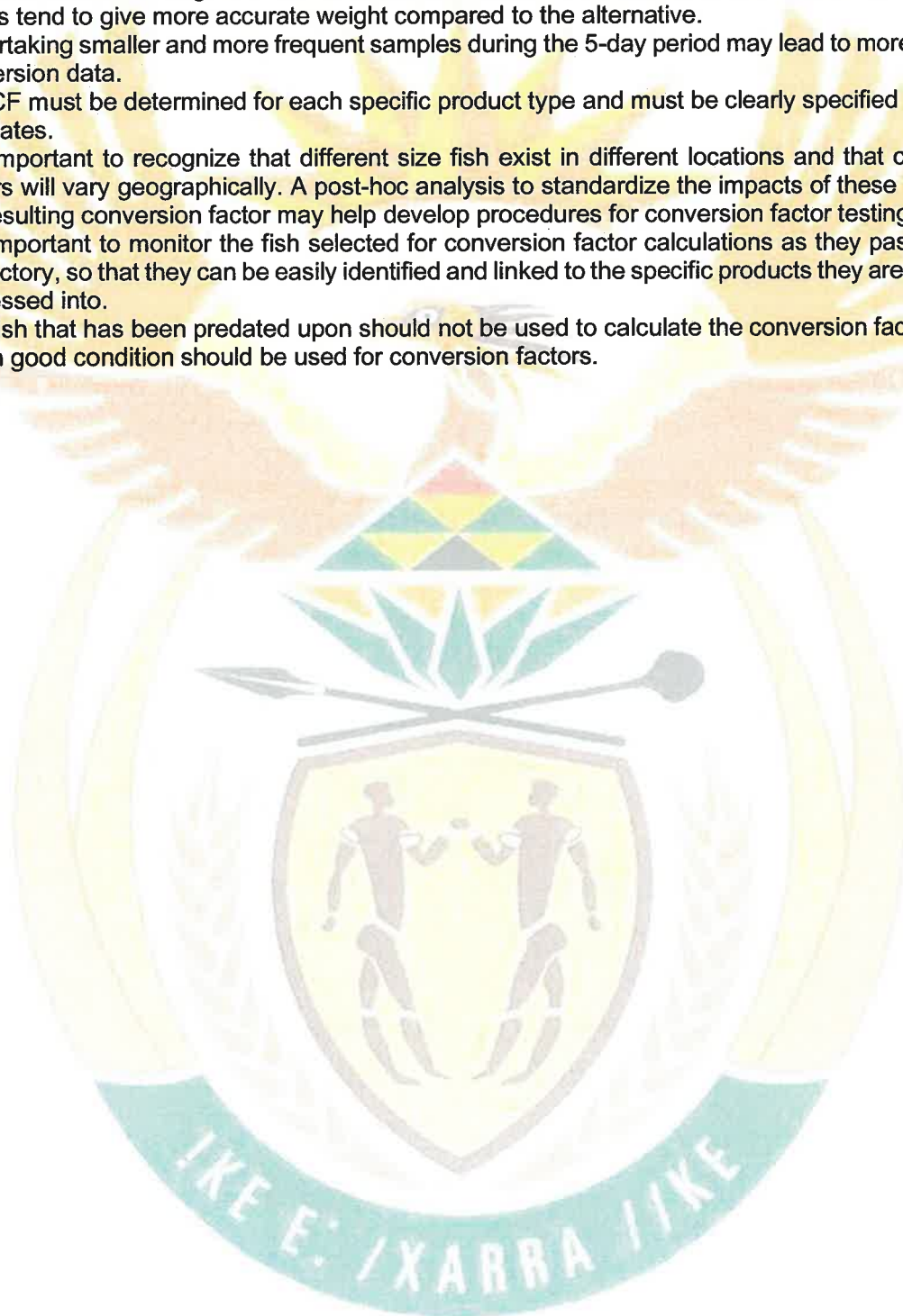
- Whole Weight = HGT Weight × Conversion Factor
- Whole Weight = 1,000 kg × 1.667 = 1,667 kg

The data are collected by Observers in collaboration with the vessel crew (who are defined Permit Holder representatives). Refer to the examples above as well as below. The required template should be completed by the Observer together with the Permit Holder representative (Annexure D). Regarding the sampling methodology, the following key points should be followed:

- Recording conversion factors for individual fish within a sample provides accurate size measurements, which can then be used to calculate a length frequency distribution for the fish in

that sample. This distribution can be compared to the length frequency distribution of the entire catch to assess whether the fish used in the conversion factor tests are representative of catch size as whole.

- ii. The scales used to weigh the fish for conversion factors should be recorded. Motion-compensated scales tend to give more accurate weight compared to the alternative.
- iii. Undertaking smaller and more frequent samples during the 5-day period may lead to more accurate conversion data.
- iv. The CF must be determined for each specific product type and must be clearly specified on the CF templates.
- v. It is important to recognize that different size fish exist in different locations and that conversion factors will vary geographically. A post-hoc analysis to standardize the impacts of these factors on the resulting conversion factor may help develop procedures for conversion factor testing in future.
- vi. It is important to monitor the fish selected for conversion factor calculations as they pass through the factory, so that they can be easily identified and linked to the specific products they are ultimately processed into.
- vii. The fish that has been predated upon should not be used to calculate the conversion factors. Only fish in good condition should be used for conversion factors.



Example:

SAMPLE SHEET FOR CONVERSION FACTOR DETERMINATION

VESSEL NAME: KORYO MARU NR 11			PROCESSED PRODUCT TYPE:
Start Date		End Date	HGT
5-Day Period as per C2:	11 November 2024	16 November 2024	
SCALE TYPE:			
Conversion Factor = Whole Weight (kg) / HGT mass (kg)			
Average Conversion Factor = Sum of conversion factors / number of fish sampled			
Fish Nr	Whole Weight (kg)	Processed product mass (kg)	Conversion Factor (CF)
1	18.067	11.031	1.638
2	25.131	14.393	1.746
3	6.566	4.21	1.560
4	45.336	28.69	1.580
5	9.658	5.698	1.695
6	7.998	4.236	1.888
7	23.258	16.369	1.421
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
		CF TOTAL	11.528
		No of fish in sample	7
CF weekly AVERAGE = (CF TOTAL/No of fish in Sample):			1.647
Total HGT weight for the week (kg):			26156
Average CF determined:			1.647
Total Whole weight for the week (kg)			43078.93
OBSERVER:			
Permit Holder Representative:			

SAMPLE SHEET FOR CONVERSION FACTOR DETERMINATION

VESSEL NAME:		PROCESSED PRODUCT TYPE:	
Start Date		End Date	
5-Day Period as per C2:			
SCALE TYPE:			
Conversion Factor = Whole Weight (kg) / PROCESSED PRODUCT mass (kg)			
Average Conversion Factor = Sum of conversion factors / number of fish sampled			
Fish Nr	Whole Weight (kg)	Processed product weight (kg)	Conversion Factor (CF)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
		CF TOTAL:	
		No of fish sampled:	
CF weekly AVERAGE = (CF TOTAL / No of fish in Sample):			
Total PROCESSED PRODUCT weight for the week (kg):			
Average CF determined:			
Total Whole weight for the period (kg):			
OBSERVER:			
PERMIT HOLDER REPRESENTATIVE:			



DIRECTOR: OFFSHORE AND HIGH SEAS FISHERIES MANAGEMENT

DATE: 26 NOVEMBER 2024





forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

2024/2025 HIGH SEAS VESSEL LICENCE CONDITIONS

1. Introduction

- 1.1. These High Seas Vessel Licence conditions (Licence Conditions) must, where applicable, be read with the most recent Permit Conditions: Patagonian Toothfish Sector, Tuna Pole-line and Large Pelagic Longline (Tuna Sectors).

2. Fishing Areas

- 2.1. Subject to condition 4 below, the Licence is valid for fishing in the High Seas (i.e. waters beyond South African waters), but does not include waters subject to the particular jurisdiction of another State, or areas within the High Seas which are subject to any Regional Fisheries Management Organisation (RFMO), any treaty system, international agreement, or areas which are subject to any international conservation and management system/measure, unless prior written authorisation is obtained from the relevant body/secretariat or state as applicable. The PEI-EEZ is outlined in <https://gis.ccamlr.org/> (<https://www.marineregions.org/eezdetails.php?mrgid=8384>)
- 2.2. Subject to conditions 2.3 and 2.4 below, licenced vessels must proceed directly to the high seas when leaving an authorised South African port to fish on the high seas and directly from the high seas to port on completion of fishing activities. No fishing is permitted while the vessel is in transit in the South African Exclusive Economic Zone (EEZ) (i.e. up to 200nm) and territorial waters.
- 2.3. In respect of commercial fishing right holders in the Tuna fishing sectors, fishing is permitted in the South African EEZ, subject to the conditions of the relevant fishing right and permit.

A handwritten signature in black ink, appearing to be 'MOM'.

- 2.4. Right holders in the commercial Patagonian toothfish sector, may fish in the South African EEZ around the Prince Edward islands and proceed to the high seas from that EEZ without having to return to port first, subject to compliance with the rules of the particular RFMO / international agreement / treaty in that area.
- 2.5. It is the License Holder's obligation in terms of section 58(2)(a) of the MLRA to ensure compliance with international conservation and management measure inside or outside SA waters.

3. Stowage of Gear

All fishing gear on board the vessel must be properly stowed in accordance with regulation 81 of the General Regulations, 1998 (GNR 1111 of 2 September 1998) in terms of the Marine Living Resources Act, 1998 whenever the vessel is in an area in which it is not authorised to fish.

4. Notification

- 4.1. Where the licence holder is permitted to fish by a relevant authority/ body/ organisation in an area that is subject to any RFMO, treaty system/ international agreement or international conservation and management system/ measure, all requirements of that relevant body must be complied with, and the Licence Holder is expected to familiarise itself with rules and measures of such body, including closed areas and whether notification or reporting is required prior to each instance of fishing in that particular area.
- 4.2. No fishing in the SIOFA area of competence is permitted.
- 4.3. Prior notification must be submitted to the relevant Secretariat of the RFMO, international treaty/ agreement or international conservation and management system/ measure and to the Department at vmsops@dffe.gov.za within 24 hours prior to the vessel entering and exiting the relevant area.

5. Vessel Monitoring System and Automatic Identification System

- 5.1. The fishing vessel shall be fitted with a functional vessel monitoring system (VMS) approved by the Department.
- 5.2. It is the responsibility of the Licence Holder to ensure that the VMS is fully operational and that the VMS continues to transmit to the Department's Operations Room. The Licence Holder shall establish that the VMS unit is functional by contacting the Operations Room at the Branch: Fisheries Management during office hours on telephone numbers +27 21 402-3076 or +27 21 402-3077, or via email vmsops@dffe.gov.za prior to sailing.
- 5.3. Whilst at sea, the VMS shall report continuously and uninterruptedly to the Operations Room. Such reports should be submitted every hour. Should the power supply to the VMS be interrupted or the equipment not be operational for any reason whatsoever and the problem persists, the vessel shall return to port/ commence return to port within 24 (twenty-four) hours of being informed of the problem, unless special arrangements have been made with the Department's Operations Room to allow the vessel to continue fishing. Such special arrangements must be confirmed in writing by the Licence Holder and must include:
- 5.3.1. Hourly reporting of the vessel's position faxed to +27 21 425 6497; or e-mailed to vmsops@dffe.gov.za;
 - 5.3.2. the format of the manual VMS reports shall include the following: date, time (UTC), latitude, longitude degrees minutes and decimal minutes e.g 36°32.786'S, course (true) and speed (knots);
 - 5.3.3. the report must be sent once a day (every 24 hours) containing eight reports in the prescribed format;
 - 5.3.4. notice of estimated time of arrival;
 - 5.3.5. notice of port of arrival;
 - 5.3.6. inspection of the catch by a FCO/Monitor, where applicable; and
 - 5.3.7. a copy of the vessel track for the voyage for verification purposes.

The Department will keep a record of the frequency of VMS breakdowns in order to discourage repeated use/abuse of this special arrangements dispensation.

- 5.4. Licence Holders wishing to switch their VMS units off whilst alongside in port, may only do so up until six (6) hours prior to their estimated time of departure from port.
- 5.5. In addition to conditions 5.1. to 5.4 above, Licence Holders must ensure that the vessel is fitted with a fully functional Automatic Identification System (AIS) and keep it switched on at all times including while in the CCAMLR Convention Area for the prevention of collision between vessels, except for when the operation of AIS might compromise the safety or security of the vessel or where security incidents are imminent.
- 5.6. The Licence Holder must ensure that when traversing any area which is subject to a regional fisheries management organisation, international agreement or treaty, comply with any relevant conservation management measure relating to AIS or VMS reporting.

6. Landing of fish

- 6.1. The Licence Holder must ensure that all fish is discharged from the vessel in accordance with the reasonable instructions of the FCO.
- 6.2. All the fish caught in terms of this licence, shall only be landed in South Africa at the designated ports and landing points as defined in the relevant fisheries permit conditions.

7. General

- 7.1. These licence conditions may be amended by the Director: Offshore and High Seas Fisheries Management.
- 7.2. The Licence Holder shall not discard any waste material, garbage or pollutants into the sea, harbour or landing site. The Licence Holder shall safely store all waste material, garbage and pollutants on board the vessel and may only dispose of such material in the appropriate reception facilities within and as required by the port/harbour.

8. Non-compliance

- 8.1. A breach of the provisions of the MLRA, its regulations and/or these Licence Conditions by the Licence Holder may result in the initiation of legal proceedings, which may include

proceedings in terms of section 28 of the MLRA and/ or criminal proceedings, including in terms of section 58(2) of the MLRA and/ or sanctions/proceedings in terms of any conservation management measure of a relevant regional fisheries management

- 8.2. No further high seas licence application will be considered while any proceedings under section 28 of the MLRA or criminal proceeds are being undertaken in respect of alleged non-compliance with the provisions of the MLRA, its regulations and/or these licence conditions by the Licence Holder.
- 8.3. The Licence Holder shall not catch, land, take onboard, sell, receive, transport, store, tranship or process any fish taken by any means in contravention of the MLRA and applicable laws and conservation and management measure of any relevant RFMO/international agreement/treaty.
- 8.4. If a Licence Holder witnesses a contravention of the provisions of the MLRA by any other person and fails to report this, the Licence Holder will have committed a criminal offence in terms of the MLRA. Any contravention, including contraventions of any RFMO conservation management measure, must immediately be reported telephonically to the Customer Service Centre at (021) 402 3180 and thereafter shall be emailed to vmsops@dffe.gov.za, for attention: The Chief Director: Monitoring, Control and Surveillance (MCS).



DIRECTOR: OFFSHORE AND HIGH SEAS FISHERIES MANAGEMENT

DATE: 25 November 2024



I,

Elizabeth Magdalene Sher
I.D No 7405130197084

hereby states under oath the following.

I am the sole member of Braxton Security Services cc t/a Braxton Shipping which is the owner of *MFV El Shaddai*. In 2015 and 2016 Braxton was a party to a joint venture with the 4 South African Patagonian Toothfish Right Holders, viz. Bato Star, I&J, Suidor and Arniston.

In the said period the Right Holders were issued fishing permits by the Department of Fisheries to fish in the Prince Edward Marion Islands. The areas stipulated on the permits were 51, 58.6 and 58.7.

Since 2010 the *MFV El Shaddai* has maintained a legal and sustainable fishing operation in the CCAMLR region, strictly adhering to South African Permit conditions and CCAMLR conservation measures. Throughout its fishing operations, the vessel consistently complied with regulatory requirements, ensuring seamless reporting through its Vessel Monitoring System (VMS) to both the flag state and CCAMLR authorities.

Braxton's Annual Financial Statements (AFS) for 2015 and 2016 indicates the total income and expenditure for each annum, the following information forms part of the AFS.

Voyage 15, conducted from May 26, 2015, to July 10, 2015, results are summarized as follows. Over 12 days region, 16 lines were set in Area 58.6, resulting in a catch of 7,683.73 tons of HGT. The catch was sold at USD 22.1602 per kg, generating USD 170,273.10 in sales. With a rand/dollar exchange rate of R12.5306, the total rand value of the catch amounted to R2,133,603.56.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a vertical line and some additional scribbles.

Expenses included loyalty payments, food, fuel, salaries, packaging, lubes/oil/filters, refrigeration, hull insurance, P&I, and COB insurance, totalling R1,237,062.22. After deducting expenses and 28% income tax, the net profit was R645,509.76, please see Table 1 below.

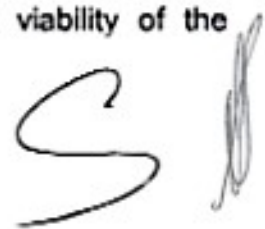
Voyage 17, conducted from March 21, 2016, to May 31, 2016, results are as follows. Over 22 days, the vessel 28 lines were set in Area 58.6, resulting in a catch of 10,122.29 tons of HGT. The catch was sold at USD 25.1294 per kg, generating USD 254,363.03 in sales. With a rand/dollar exchange rate of R14.63738, the total rand value of the catch amounted to R3,723,208.33.

Expenses included loyalty payments, food, fuel, salaries, packaging, lubes/oil/filters, refrigeration, hull insurance, P&I, and COB insurance, totalling R1,943,971.69. After deducting expenses and calculating net profit, the voyage resulted in a significant financial gain.

Voyage 18, conducted from June 19, 2016, to September 10, 2016, resulted in a modest catch. Over four days, five lines were set in Area 58.6, yielding 389.16 kilograms of HGT. The catch was sold at USD 26.841 per kilogram, generating USD 10,455.35 in sales. With a rand/dollar exchange rate of R13.7695, the total rand value of the catch amounted to R143,966.18.

However, expenses were substantial, including loyalty payments (R14,396.62), food (R59,200), fuel (R538,849.04), salaries (R75,456.86), packaging (R1,440), lubes/oil/filters (R12,800), refrigeration (R14,000), hull insurance (R7,795.96), P&I (R2,890.24), and COB insurance (R3,925.56), totalling R727,664.38. This exceeded the voyage's revenue, resulting in a significant financial loss.

The financial performance of the three voyages yielded mixed results. Voyage 15 generated a net profit of R645,509.76, while Voyage 17 had a net profit of R1,295,258.86. However, Voyage 18 incurred a substantial loss of R586,788.10. Despite this setback, the cumulative total of the three voyages resulted in a final net profit of R1,353,980.52. This demonstrates the overall financial viability of the

A large, stylized handwritten signature in black ink, consisting of a large 'S' shape followed by a vertical line and some loops.

operations, with the successes of Voyages 15 and 17 offsetting the losses of Voyage 18.

Table 1: Illustration of Income and losses from voyages 15, 17 and 18.

	Voyage 15 (CCAMLR)	Voyage 17 (CCAMLR)	Voyage 18 (CCAMLR)	Total
Gross sales	R2 133 603.56	R3 723 208.3 3	R 143 966.18	
Expenses	R1 237 062.22	R1 924 237.6 9	R730 754.28	
Subtotal	R896541.34	R1 798 970.6 4	R586 788.10	
Income tax	R251 031.85	R503 711.78	Nil	
Net Profit	R 645 509.76	R 1 295 258.86		R1 940 768.62
Net Loss			R 586 788.10	R 586 788.10
				R1 353 980.52

Voyage 24, conducted from April 26, 2019, to June 29, 2019, results are summarized as follows. Over 64 days the vessel set, 141 lines were set in FAO Area 51, resulting in a catch of 39, 967 tons of HGT. The catch was sold at USD 18.819 per kg, generating USD 752 164.11 in sales. With a rand/dollar exchange rate of R13,9113 the total rand value of the catch amounted to R10 463 580,58. Expenses included loyalty payments, food, fuel, salaries, packaging, lubes/oil/filters, refrigeration, hull insurance, P&I, and COB insurance, totalling R10 664 738.77. After deducting expenses, the loss suffered was R201 158.22.

	Voyage 24 (FAO51)	Total
Gross sales	R10 463 580.55	
Expenses	R10 664 738.77	
Subtotal	-R201 158.22	
Income tax	NIL	
Net Profit		
Net Loss	-R201 158.22	-R201 158.22



Since being listed on the CCAMLR, SIOFA and other RFMO 's Illegal, Unreported, and Unregulated (IUU) fishing vessel lists in 2021, our vessel has been unable to operate, resulting in significant financial consequences. The subsequent cessation of operations has led to substantial expenses, totalling R3,404,337.79, comprising salary costs (R1,366,661.67), food costs (R135,000), and port fees (R1,902,676.12).

Furthermore, the loss of income due to the vessel's idle status has been devastating, with cumulative losses amounting to R306,856,259.40 over the past three years. The breakdown of these losses is as follows: R109,323,686.70 in 2022, R96,352,462.20 in 2023, and R101,180,110.50 in 2024. The IUU listing has effectively grounded our operations, resulting in severe financial strain and emphasizing the urgent need for resolution to restore our vessel's operational status.

Braxton's joint venture, established in 2010 with four right holders, was later modified in 2018 to include only three right holders: Bato Star, Amiston, and Suidor. Unfortunately, the listing of El Shaddai led to the cancellation of this joint venture causing losses exceeding R800,000,000 from 2024 until the expiration of the Patagonian Toothfish Rights. This significant financial blow underscores the importance of resolving the IUU listing to revive our operations and mitigate further losses.



DEPONENT

I HEREBY CERTIFY that the Deponent has acknowledged that she knows and understands the contents of this Affidavit which was signed and sworn to before me at DURBAN on this *1st* day of *October* 2024 after the provisions contained in Regulation R1258 published in Government Gazette dated 21 July 1972 as amended had been duly complied with.



COMMISSIONER OF OATHS

SIVANANDHA REEVES PARSEE
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
REPUBLIC OF SOUTH AFRICA
93 RICHEFOND CIRCLE
RIDGESIDE OFFICE PARK, UMLANGA 4319