

THE SOUTH AFRICAN TUNA ASSOCIATION (SATA)

CONSTITUTION

Constitution first presented and approved at the Inaugural Meeting of SATA in 1998

AMENDMENTS:

30/05/2018	Revision of Constitution
16/10/2018	Approval of revised Constitution
28/08/2019	Inclusion of new Executive Structure as adopted by Members at AGM

CONTENTS:

1. NAME AND DEFINITIONS
2. AIMS AND OBJECTIVES
3. LEGAL STATUS
4. POWERS OF THE TUNA ASSOCIATION
5. MEMBERSHIP AND MEMBERSHIP FEES
6. MEETINGS OF THE TUNA ASSOCIATION
7. PROXY
8. MANAGEMENT
9. CERTIFICATE OF MEMBERSHIP
10. RECORDS
11. INDEMNITY
12. EXPULSION
13. AMENDMENT OF CONSTITUTION
14. DISPUTE RESOLUTION PROCEDURE
15. DISSOLUTION

THE SOUTH AFRICAN TUNA ASSOCIATION CONSTITUTION

1. NAME

This is the constitution of The South African Tuna Association (hereinafter referred to as the Association).

2. AIMS AND OBJECTIVES

The objects of the Association shall be:

- 2.1. To maintain recognition as an industrial body or Interest Group in terms of Section 8 of the Marine Living Resources Act, 1998 and any amendment or substitution thereof;
- 2.2. To furnish information, advise as a statutory committee or body and make representations to government and provincial bodies, including but not limited to the Minister of Agriculture, Forestry and Fisheries, the Chief Directorate : Marine Resource Management together with any Management Working Group, Forum or Council established in terms of the said Act and any amendment thereof about any matter which concerns the tuna industry;
- 2.3. To constitute a forum for the discussion of matters pertaining to the entire spectrum of the tuna industry including, but not restricted to, resource management measures, quality control measures, state of the stocks, exploitation levels, Fishing Rights, scientific research, funding of research projects and legal representation on matters pertaining to the management of the tuna resource;
- 2.4. To assign or delegate any function either wholly or in part as may be required.

3. LEGAL STATUS

- 3.1. The Association shall be a body corporate and have a legal status independent of any person, or any member or members of the Association.
- 3.2. The Association shall have the power to institute and oppose legal proceedings in its corporate name and legal documents may be served on the Chairperson of the Association. The Chairperson for the time being or any person authorised by him or by the Committee shall have the power to institute or defend any legal proceedings.

4. POWERS OF THE ASSOCIATION

In the furtherance of the said Aims and Objectives, the Association and / or the committee (on behalf of the Association and subject to any limitations, conditions or policies imposed by the Association) and / or such persons as may be authorised thereto by either the Association or the committee may:

- 4.1. Apply for, invite, obtain, collect and receive monies, funds, securities and other sources of income and capital by way of contributions, subscriptions, donations, grants, legacies, sale of publications, levies and other lawful methods and receive gifts of any description whether or not subject to trust.
- 4.2. Provide, furnish and fit out offices with all necessary furniture and equipment and maintain and manage such other buildings and premises as may from time to time be required for the purpose of the Association.
- 4.3. Employ and retain necessary staff, consultants and agents on a full-time or part-time basis and on such terms as to payment or other terms and conditions of employment as the committee may agree on or on a voluntary basis. The committee is entitled to determine the salary or remuneration of any person so employed.
- 4.4. Purchase, lease or otherwise hold freehold and leasehold property with full power to lease or sublease all or any part of such property.
- 4.5. Purchase, lease, subscribe for and by any other lawful means acquire assets as may be required by the Committee to carry out its functions.
- 4.6. Open and operate accounts and other facilities for banking.
- 4.7. To enter into any contract with a local authority or private institution, corporation, company or individual for the supply of services for the benefit of the Association and / or its members.
- 4.8. Establish, promote, amalgamate or become a part of, a member of or affiliate to, or associate with or act as or appoint trustees, agents, nominees or delegates to control, manage and superintend any charitable or other institutions, trusts, companies, associations or bodies incorporated or unincorporated, the objects of which are wholly or in part similar to those of the Association or whose

activities complement or will complement or be of benefit to the Association or some or all of its members.

- 4.9. Invest the monies of the Association not immediately required for its purposes in or upon such investments, security or property as may be determined from time to time, subject nevertheless to such conditions(if any) as may for the time being be imposed or required by law.
- 4.10. To do all such other things as will further the attainment of any of the above aims and objectives.

5. MEMBERSHIP AND MEMBERSHIP FEES

- 5.1. The Association shall be a non political body and shall in no way discriminate with regard to race, gender, ethnic origin, religion, place of birth, or a member's political beliefs and shall be committed to a democratic society.
- 5.2. Membership may be granted to any individual or legal entity. It shall be a precondition of membership that the proposed member has been granted a Commercial Fishing Right in terms of which the catching of tuna as a primary target species is permitted or has a proven vested interest in the tuna Sector as contemplated in Section 5.14.
- 5.3. This may be accepted by the committee as evidence if the proposed member concerned demonstrates to the Committee's satisfaction the following:
 - 5.3.1 has used a boat wholly owned or has an interest (whether directly or indirectly) to operate any such Right within South African Waters as contemplated in 5.2 on a commercial basis;
 - 5.3.2 Is a Right Holder; or
 - 5.3.3 Is involved in the Processing and Marketing of tuna.
- 5.4. An application for membership shall be accompanied by a signed motivation, must identify the nominated vessel/s (which may be changed from time to time) and must include a copy of the current safety certificate of such vessel/s. Every such vessel must be approved under the Marine Living Resources Act, 1998 and Regulations promulgated thereunder, to fish for tuna under South Africa's agreed RFMO (Regional Fisheries Management Organization) recommendations as amended from time to time.
- 5.5. Should there arise a dispute as to the interpretation of whether clause 5.2 and 5.3 has been complied with, the matter shall be dealt with in terms of Clause 14.
- 5.6. If any application for membership is approved by the committee the member applying for admission will be registered as a member 14 days after receipt of his or its Annual Member's Contribution for the current financial year and the joining fee as set by the committee as contemplated in 5.9.
- 5.7. Members shall remain involved and retain an interest in the tuna industry contemplated in 5.2 and 5.3, failing any of which, the member concerned shall, at the discretion of the committee, forfeit his or its membership.
- 5.8. New members shall pay the full Annual Member's Contribution for the financial year in which they are admitted to the Association as a member.
- 5.9. The Annual Members Contribution may be decided upon by the members at the Annual General meeting.
- 5.10. Members shall pay such Annual Members Contribution within 30 days of invoice of each financial year.
- 5.11. Members who fail to pay Annual Members Contributions by 30 June may, at the discretion of the Committee, lose his or its membership and may not be re-admitted as a member until the following year. A member that is re- admitted after losing membership pursuant to this clause 5.11 shall maintain the same membership status as that which he or it had at the time when such membership was lost.
- 5.12. Notwithstanding any provision of this constitution, existing members shall be deemed to have complied with the conditions for admission as members but shall nevertheless be subject to 5.11.
- 5.13. Where any member is more than 12 months in arrears with all or any portion of an Annual Members Contribution without arrangements being in place, his or its membership shall automatically lapse.
- 5.14. Membership may be granted to any individual or legal entity. Such membership shall be opened to anyone involved in the processing and/or marketing of tuna.

6. MEETINGS OF THE TUNA ASSOCIATION

- 6.1. Only registered members who have paid their full Annual Member's Contribution shall be entitled to attend meetings, vote at meetings, or participate in any way in the business of the Association.
- 6.2. The Committee may permit the attendance at meetings of invited non-members and may, in its discretion, co-opt members or non-members to sub-committees.
- 6.3. An Annual General Meeting shall be held within each financial year. The secretary shall give all members of the Association at least 21 (twenty-one) days formal notice of this meeting together with a blank proxy form as it appears in the records of the Association.
- 6.4. The inadvertent failure to give notice to any member shall not invalidate the meeting.
- 6.5. The quorum for the general meeting, including the Annual General Meeting, shall be 25% (twenty-five percent) of the membership.
- 6.6. If a quorum is not present within 30 minutes, the meeting shall stand adjourned for a week and immediate notice shall be given of the adjournment and the time and venue of the adjourned meeting. Any attendance at such meeting shall constitute a quorum. This 6.6 shall not apply to Extraordinary

General Meetings.

- 6.7. An Extraordinary General Meeting shall be convened in the same manner as an Annual General Meeting and be subject to the same quorum requirement.
- 6.8. At the Annual General Meeting, the members shall elect as necessary and as far as possible on a three-year cycle as contemplated below, the President, Chairperson (Pole and Line Chamber), Vice-Chairperson (Pole and Line Chamber), Chairperson (Large Pelagic Longline Chamber), Vice-Chairperson (Large Pelagic Longline Chamber), Treasurer and Secretary to serve in those capacities plus a maximum of 10 (ten) additional members to each respective Chamber (referred to as the "committee"). Each committee member shall serve as such for a period of 3 (three) consecutive years terminating at the conclusion of the relevant Annual General Meeting. Extended Committee membership may be re-elected by registered members by way of vote at the Annual General Meeting of the Association.
- 6.9. Notwithstanding 6.8 Committee Membership may be nominated and voted for in any year, in respect of which a vacancy exists, whether through resignation, death or otherwise.
- 6.10. Nominations for retiring committee members or office-bearers may be accepted at the Annual General meeting but, save with the consent of the meeting, no-one being opposed thereto, no other nominations may be accepted otherwise than on 14 days' notice to the committee, which nominations shall be signed by two proposers and the nominee.
- 6.11. With the Exception of the Annual General Meeting, which is compulsory, Committee members failing to attend two consecutive Association Meetings, which shall include Committee Meetings or Extraordinary General Meetings, may at the discretion of the Committee have such Committee Membership revoked. Any Committee member who has been expelled shall not be entitled to be nominated or serve as a Committee Member for a period of at least three years from the date of expulsion.
- 6.12. With a specific, special purpose in mind, an Extraordinary General Meeting may be called by the Committee, or by at least ten other members of the Association, the latter in terms of a written request signed by such members and addressed to the secretary of the Association. The Extraordinary General Meeting shall be held at a time and place of the Chairperson's choice provided that such request does not occur within 15 days after another general meeting.
- 6.13. All proposals for consideration at an Extraordinary or Annual General Meeting shall be submitted in writing to the Secretary of the Committee and, save with the consent of the Committee, not less than 14 (fourteen) days prior to the date set for the meeting. Notice of such proposals shall be given to Members not less than 7 (seven) days before the meeting.
- 6.14. On show of hands, every member present in person or by proxy and if a member is a body corporate, its representative, shall have one vote at any vote of the Association in general meeting. The Chairperson may exercise a casting vote in the event of a deadlock. Any member may, upon the declaration of the result of a vote by show of hands or before such vote is taken, demand poll, and such poll shall then be held by secret ballot and the outcome of such poll announced by the Chairperson shall be the decision of the meeting.
- 6.15. The place and time of each Committee Meeting shall be fixed by the Chairperson or in his absence the Secretary of the Committee, provided that any 4 (four) members of the Committee acting together may call a meeting at any time and specify the venue for such meeting.
- 6.16. Each Committee member shall be entitled to not less than seven days written notice of each committee meeting, but such notice may be waived in special circumstances.
- 6.17. The quorum for a committee meeting shall consist of any five committee members. In the event of a quorum not being present for a committee meeting, an alternative meeting date at least three days hence shall be nominated by the Chairperson or Secretary.
- 6.18. Notices shall be deemed to have been received by members on the 4th (fourth) day after notification being sent by the Chairperson or Secretary.
- 6.19. Proper minutes shall be kept of all meetings.

7. PROXY

- 7.1. Any member or a representative of a member may appoint proxy to attend, speak and vote on his behalf at any meeting of the Association. The instrument appointing a proxy shall be in writing under the hand of the appointer or his agent duly authorised in writing, or, if the appointer is a body corporate, under the hand of an officer or agent authorised by the body corporate. A proxy need not be a member of the Association.
- 7.2. The instrument appointing power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be lodged with the Secretary of the Association not less than 2 (two) business days before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default of complying therewith the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of six months from the date when it was signed unless so specifically stated in the proxy itself, and no proxy shall be used at an adjourned meeting which could not have been used at the original meeting.
- 7.3. The instrument appointing a proxy shall be in the following form or as near thereto as circumstances permit:

THE SOUTH AFRICAN TUNA ASSOCIATION

I _____ of _____ being a member of the The South African Tuna Association, hereby appoint

_____ of _____ or failing him

_____ of _____ or failing him

_____ of _____, as my proxy to vote for me and on my behalf at the Annual General meeting (as the Case may be) of the Association to be held on the _____ day of _____ and at any adjournment thereof as follows:

In favour of

Against

Abstain

Resolution to _____

Resolution to _____

Resolution to _____

(Indicate instruction to proxy by way of across in space provided above.)

Unless otherwise instructed, my proxy may vote as he sees fit.

Signed this _____ day of _____

Signature

(Note: A member entitled to attend and vote is entitled to appoint a proxy to attend, speak and on a poll vote in his stead, and such proxy need not also be a member of the Association.)"

8 MANAGEMENT

- 8.1 All cheques drawn on the Banking Account of the Association shall be signed by the Treasurer and one other member of the committee of the Association authorised thereto by the committee.
- 8.2 The financial year of the Association shall be 1 January to 31 December of each year

9 CERTIFICATE OF MEMBERSHIP

A certificate of membership shall be issued to each member and shall be prima facie proof of membership of the Association.

10 RECORDS

The books and records of the Association shall be open for inspection by members of the Association at all reasonable times, subject to the said member giving the committee notice, to be received by the secretary no less than two weeks prior to the requested date of inspection. Such records shall, however, be treated as confidential by members except as authorised by the committee or the Association.

11 INDEMNITY

All committee members shall be indemnified and held harmless out of the funds and property of the Association from and against all actions, costs, charges, losses, damages and expenses which they or any of them shall or may incur by or by reason of any act done, concurred in or about the execution of their duty, except such, if any, as they shall incur or sustain through their own wilful act or default.

12 EXCLUSION

The committee shall have the power to exclude from its meetings, and/or expel and/or suspend from the Association, any member or members for any act of omission or commission which, in the opinion of the committee, is detrimental to, or contrary to objects of, the Association, which amounts to material and deliberate contravention or attempted contravention; or which is prejudicial or potentially prejudicial to any member or members of the Association.

13 AMENDMENT OF CONSTITUTION

This Constitution shall be capable of being amended by a two-thirds majority of those association members who are present at the Annual General Meeting or Extraordinary Association Meetings at which the amendment is to be proposed; provided that each association member shall receive at least 14 days prior written notice of each proposed amendment. A proxy shall accompany the notice of meeting.

14 DISPUTE RESOLUTION PROCEDURE

- 14.1. For the purpose of this 14, "dispute" includes, without prejudice to the generality of that term-
 - 14.1.1 the failure to pass any resolution at a meeting of members as a result of-
 - 14.1.1.1. a resolution requiring unanimous approval not being so approved;
 - 14.1.1.2. a deadlock arising with regard to the passing of a resolution; or
 - 14.1.1.3. the absence of a quorum;
 - 14.1.2. any action by any member contrary to the provisions of this constitution;
 - 14.1.3. any dispute between any member and the Association in connection with-
 - 14.1.3.1.1. the interest of a member in the Association;
 - 14.1.3.1.2. the employment or termination of the employment of a member by the Association;
 - 14.1.3.1.3. the powers, duties or office of a managing member; or
 - 14.1.3.1.4. the affairs of the Association.
- 14.2. Should a dispute arise, any member of the Association shall be entitled to require, by written notice to the Association, that the dispute be submitted to arbitration in terms of this 14 and copies of such written notice shall be sent immediately by the Association to all members.
- 14.3. Subject to the provision of this 14, an arbitration shall be held under the provisions of the arbitration laws for the time being in force in the Republic of South Africa (as it is constituted from time to time), provided that-
 - 14.3.1. The arbitrator shall be, if the question in issue is -
 - 14.3.1.1. Primarily an accounting matter, an independent person qualified for appointment as an accounting officer of an association under the Act who has held that qualification for not less than ten years;
 - 14.3.1.2. Primarily a legal matter, a practising advocate or attorney of not less than ten years standing;

- 14.3.1.3. any other matter, any person unconnected with any of the parties to the arbitration, agreed upon by the members who are parties to the dispute and failing such agreement within three days after the date on which the arbitration is demanded, shall be appointed by the President for the time being of the Law Society of the Cape Of Good Hope who may be requested by any party to the dispute to make that nomination at any time after the expiry of that three day period.
- 14.3. The arbitration shall be held in Cape Town in accordance with the formalities and/or procedures to be settled by the arbitrator, and may be held in an informal and summary manner on the basis that it shall not be necessary to observe or carry out the usual formalities of procedure, pleadings and/or discovery, or the strict rules of evidence.
- 14.4. The arbitrator shall be entitled –
 - 14.4.1. to investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with the dispute and for that purpose shall have the widest powers of investigating all the books and records of the Association and of any member who is a party to the dispute and the right to make copies or take extracts therefrom and the right to have them produced at or delivered to any reasonable place required by him for the aforesaid purposes;
 - 14.4.2. To interview and question under oath any of the members;
 - 14.4.3. To decide the dispute according to what he considers just and equitable in the circumstances; and
 - 14.4.4. to make such award, including an award for specific performance, an interdict, costs, damages or a penalty or otherwise as he in his discretion may deem fit and appropriate;
- 14.5. The arbitration shall be held as quickly as possible after it is demanded with a view to its being completed within thirty days after it has been so demanded.
- 14.6. Immediately after the arbitrator has been agreed upon or nominated in terms of 14.3, any of the parties to the dispute shall be entitled to call upon the arbitrator to fix a date and place when and where the arbitration proceedings shall be held to settle the procedure and matter in which the arbitration proceedings will be held.
- 14.7. Any award that may be made by the arbitrator-
 - 14.7.1. Shall be final and binding;
 - 14.7.2. Will be carried into effect; and
 - 14.7.3. May be made an order of any court to whose jurisdiction the parties to the dispute are subject.

15 DISSOLUTION

The Association at a Special General Meeting or at the Annual General Meeting may be dissolved by Resolution passed by seventy five percent (75%) of all members, in person or by proxy, of which the required notice has been given. If after dissolution of the Association there remains any funds to the credit of the Association's banking account or in any other source, after the satisfaction of all debts and liabilities, the said fund shall be distributed amongst members of the Association in such manner as may be determined at the Meeting which resolved to dissolve the Association.