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**REPUBLIC OF KENYA
REGULATORY IMPACT STATEMENT**



**THE FISHERIES MANAGEMENT AND DEVELOPMENT
REGULATIONS**



REGULATORY IMPACT STATEMENT FOR THE FISHERIES MANAGEMENT AND DEVELOPMENT REGULATIONS, 2024

This Regulatory Impact Assessment (RIA) has been prepared by the Ministry of Mining, Blue Economy, and Maritime Affairs under Sections 6 and 7 of the Statutory Instruments Act, Cap 2A.

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DEFINITIONS

“Aquaculture”	means the cultivation, propagation or farming of aquatic organisms, including fish, molluscs, crustaceans and aquatic plants whether from eggs, spawn, spat and seed
“Aquarium fish”	means any fish including brood, fry or ova thereof, which are or may be intended for capture by or sale to any person for purpose of displaying in a tank or aquarium
“Aquaponics”	refers to the technology that combines aquaculture (fish farming) with hydroponic (growing of vegetables) in nutrient solution
“Beach Management Unit”	means an organization of fishers, fish traders, boat owners, fish processors and other beach stakeholders at designated fish landing site who depend on fisheries activities for their livelihoods
“Capture fisheries”	refers to the management, development and utilization of naturally occurring fish in both marine and freshwater environment.
“Commercial fishing”	taking of fish from oceans, rivers, dams and lakes for trade
“Co-management”	means a process of management in which government shares power with resource users, with each given access and responsibilities relating to information and decision making
“Critical habitat”	means a habitat that is essential for maintaining the integrity of an ecosystem, species or assemblages of species
“Deep Sea”	means an area beyond twelve nautical miles
“Exclusive Economic Zone (EEZ)”	means the area as defined in the Maritimes Zones Act Cap 371 Laws of Kenya
“Fish”	means any marine or aquatic animal or plant, living or not and processed or not, and any of their parts

and includes any shell, coral, reptile and marine mammal

“Fishing”

searching for or taking of fish; the attempted searching for or taking of fish; engaging in any other activity which can reasonably be expected to result in the locating or taking of fish;

“Fishery resources” or “fisheries resources”

means any fishery or stock, species or habitat of fish or part thereof

“Illegal fishing”

includes:

- (a) activities conducted by national or foreign vessels in waters under the jurisdiction of a state without the permission of that state, or in contravention of its laws and regulations;
- (b) activities conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which those states are bound or relevant provisions of international law; and
- (c) activities carried out in violation of national laws or international laws or international obligations, including those undertaken by cooperating states to a relevant regional fisheries management organization

“Mariculture”

means a specialized branch of aquaculture (which includes freshwater aquaculture) involving the cultivation of marine organisms for food and other animal products, in enclosed sections of the open ocean (offshore mariculture), fish farms built on littoral waters (inshore mariculture), or in artificial tanks, ponds or raceways which are filled with seawater (onshore mariculture)

“Ornamental fish”

means any species of aquatic animals that are reared or marketed for their aesthetic value

“Ornamental fishing”	means commercial fishing for aesthetic purposes including aquarium fishing
“Recreational fisheries”	means the fisheries for leisure or relaxation
“Subsistence fishing”	means fishing for personal consumption or traditional/ceremonial purposes
“Surveillance”	means checking and ensuring compliance with control measures imposed in aquaculture, fishing or fishing related activities
“Unregulated fishing”	Includes activities conducted by vessels without nationality or by those flying the flag state not party to that organization, or by a fishing identity in a manner that is not consistent with the conservation and management measures
“Unreported fishing”	includes activities which the relevant authority has not been notified

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ABBREVIATIONS

AU-NEPAD	-	African Union- New Partnership for Africa's Development
AIMS	-	Africa Integrated Maritime Strategy
BMU	-	Beach Management Unit
BPI	-	Blue Ports Initiative
CEC	-	County Executive Committee
CIFAA	-	Committee for Inland Fisheries and Aquaculture of Africa
CITES	-	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COFI	-	Committee of Fisheries
COMESA	-	Common Market for Eastern and Southern Africa
DWFN	-	Distant Water Fishing Nations
EEZ	-	Exclusive Economic Zone
ESP	-	Economic Stimulus Programme
EU	-	European Union
FAO	-	Food and Agricultural Organization
FMDA	-	Fisheries Management and Development Act
GDP	-	Gross Domestic Product
GHP	-	Good Hygiene Practices
GIZ	-	German Agency for International Cooperation
GLP	-	Good Laboratory Practices
GMP	-	Good Manufacturing Practices
HACCP	-	Hazard Analysis Critical Control Point
HLP	-	High-Level Panel
ILO	-	International Labour Organization
ISA	-	International seabed Authority
IORA	-	Indian Ocean Rim Association
IOTC	-	Indian Ocean Tuna Commission
IUU	-	Illegal, Unreported and Unregulated Fishing
IOC-UNESCO	-	Intergovernmental Oceanographic Commission of UNESCO
IWC	-	International Whaling Commission
JICA	-	Japan International Cooperation Agency
JV	-	Joint Ventures
KCGS	-	Kenya Coast Guard Service
KFIC	-	Kenya Fishing Industry Corporation
KMFRI	-	Kenya Marine and Fisheries Research Institute
LVEMP	-	Lake Victoria Environmental Management Programme
LVFO	-	Lake Victoria Fisheries Organization
MCS	-	Monitoring, Control and Surveillance
MT	-	Metric Ton
NAMARET	-	National Mariculture Research and Training Centre
NEMA	-	National Environment Management Authority
PSMA	-	Port State Measures Agreement
PV	-	Patrol Vessel
RAS	-	Recirculation Aquaculture Systems
RIS	-	Regulatory Impact Statement
SDGs	-	Sustainable Development Goals
SIOFA	-	South West Indian Ocean Fisheries Agreement
SWIOFC	-	Southwest Indian Ocean Fisheries Commission
TAC	-	Total Allowable Catch
UNCLOS	-	United Nations Convention on the Law of the Sea
UNEP	-	United Nations Environment Programme

- UNFSA - United Nations Fish Stock Agreement
- VMS - Vessel Monitoring System
- WIOMSA - Western Indian Ocean Marine Science Association
- WTO - World Trade Organization

CHAPTER 1

INTRODUCTION

1.1 PURPOSE OF THE REGULATORY IMPACT STATEMENT

The fisheries sector plays an important role in the country's development agenda. The sector provides food, employment, and income to a large population and earns the country approximately Kshs 5 billion annually in foreign exchange. The sector on average has been contributing 0.5% of the country's Gross Domestic Product (GDP) in the last five years. Further, the country's annual average fish production has been approximately 146,000 metric tons (MT) valued at approximately Kshs 27.7 billion at ex-vessel and farm-gate prices. These earnings are likely to increase if the underexploited areas such as aquaculture and fishing in the Exclusive Economic Zone (EEZ) are tapped.

The enactment of the Fisheries Management and Development Act, Cap 378 (hereinafter referred to as "the Act") was intended to promote the conservation, management and development of fisheries and other aquatic resources and to enhance the livelihood of communities dependent on fishing. The Act provides for mandatory landing, charging of levies and introduction of fishing quotas to curb overfishing. These measures are intended to increase landed catch, maximize foreign exchange earnings by companies fishing in Kenya's EEZ, create employment, develop local marine fisheries and enhance food security. However, the Act has not been fully implemented since the enabling Regulations have not been developed.

The Regulatory Impact Statement (RIS) process involves an assessment of regulatory proposals and allows members of the public to comment on proposed regulations before they are finalized. Such public input provides valuable information and perspectives and improves the overall quality of regulations. Under the Statutory Instruments Act, Cap. 2A on regulation making, a regulation-making authority shall ensure that regulations are well-targeted, effective, appropriate and that they impose the lowest possible burden on Kenyan businesses and the community.

A RIS is usually prepared before a new government regulation is introduced to provide a detailed and systematic appraisal of the potential impact of a new regulation so as to assess whether the regulation is likely to achieve the desired objectives. The RIS promotes evidence-based policymaking as new regulations typically lead to numerous impacts that are often difficult to foresee.

From a societal viewpoint, the RIS should confirm whether a proposed regulation is welfare-enhancing, in that, the benefits will surpass the costs. A RIS therefore is aimed at improving understanding of the real-world impact of regulatory action, including both the benefits and the costs of action, integrating multiple policy objectives, improving transparency and consultation; and enhancing governmental accountability.

1.2 REGULATION MAKING AUTHORITY AND THE LEGAL MANDATE

Section 37 of the Fisheries Management and Development Act, Cap. 378 empowers the Cabinet Secretary to make regulations on the management of beach management units.

Section 28(2)(a) of the Fisheries Management and Development Act, Cap. 378 empowers the Cabinet Secretary to make regulations for the operationalization of the Fish Levy Trust Fund.

Section 74(1) and (2) of the Fisheries Management and Development Act, Cap. 378 empowers the Cabinet Secretary to make regulations on aquaculture.

Section 208 of the Fisheries Management and Development Act, Cap. 378 empowers the Cabinet Secretary to make regulations generally for the better carrying out of the Act. Regulations may be made several matters including:

- a) prescribing the conditions to be fulfilled by foreign participation in fisheries, including conditions of licensing foreign fishing vessels;
- b) establishing the conditions of issue of, and procedures of application for, any license or other authority under this Act or regulations thereunder, the form and the fees payable therefore;
- c) prescribing the conditions of issue of, and procedures of application for, any license or other authority under this Act or regulations thereunder, the form and the fees payable therefor;
- d) regulating the handling, storage, and processing of fish by prescribing methods of handling, storage, and processing of fish;
- e) prescribing requirements for governing the safety and quality of fish, fish products and fish feed;

- f) providing for the management and control of fishing ports and fishing waters; and
- g) the licensing of any person to engage in any form of fishing, or of handling or transporting.

This RIS has been prepared to facilitate public consultation on the proposed Regulations. Its preparation adhered to the requirements of the Statutory Instruments Act, Cap 2A. The Regulations are intended to give full effect to the Fisheries Management and Development Act, Cap. 378.

1.3 REQUIREMENTS OF THE STATUTORY INSTRUMENTS ACT, CAP 2A.

A Regulatory Impact Statement is a systematic policy tool used to examine and measure the likely benefits, costs, and effects of new or existing regulations. A RIS is also an analytical report to assist decision makers to arrive at an informed policy decision. As an aid to decision making, the RIS includes an evaluation of possible alternative regulatory and non-regulatory approaches with the overall aim of ensuring that the final selected regulatory approach provides the greatest net public benefit.

Under sections 6 and 7 of the Statutory Instruments Act, Cap. 2A, if a proposed statutory instrument is likely to impose significant cost in part of the community, or part of the community, the regulation-making authority shall, before making the statutory instrument, prepare a regulatory impact statement.

Under the Act, a regulatory impact statement shall contain:

- h) a statement of the objectives of the proposed statutory instrument and the reasons for them;
- i) a statement explaining the effect of the proposed statutory instrument, including in the case of a proposed statutory instrument which is to amend an existing statutory instrument, the effect on the operation of the existing statutory instrument;
- j) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
- k) an assessment of the costs and benefits of the proposed statutory instrument and of any other practicable means of achieving the same objectives;

- l) the reasons why the other means are not appropriate;
- m) any other matters specified by the statutory instrument; and
- n) a draft copy of the proposed statutory instrument.

Section 5 of the Statutory Instruments Act, Cap. 2A, further requires that a regulation-making authority conducts public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

CHAPTER 2

OBJECTIVE OF THE FISHERIES MANAGEMENT AND DEVELOPMENT REGULATIONS, 2024

2.1 OBJECTIVES OF THE REGULATIONS

The objective of the Fisheries Management and Development Regulations, 2024 is to give full effect to the Act. Specifically, the Regulations aims to: -

- (a) provide for sustainable management and development of fisheries and aquaculture to contribute to food and nutritional security, create employment opportunities, create wealth, generate revenue and strengthen ecosystems approach to fisheries management that provides holistic approach to fisheries resource management;
- (b) promote the use of scientific information in management measures based on the best available scientific and indigenous knowledge;
- (c) entrench the Polluter Pay Principle among fisheries resource users; and
- (d) promote respect for cultures, recognizing within the framework of human rights as existing forms of organizations, traditions, local norms and practices as well as customary rights of small-scale fishing communities including indigenous people.

The Regulations also prescribe fees, forms and other matters required to be prescribed under the Act. This provides the mechanisms by which fisheries resource users can meet their requirements under the principal Act.

2.2 SPECIFIC OBJECTIVES OF THE REGULATIONS

The specific objectives of the Regulations are detailed in the table 1 below:

Table 1: Specific Objectives of the Regulations

	Regulation	Objective
1)	The Fisheries Management and Development (Beach Management Units) Regulations, 2024.	The objectives of the regulations are to - (a) strengthen the management of fish landing stations, fishery resources, and the aquatic environment;

		<p>(b) support the sustainable development of the fisheries sector;</p> <p>(c) improve planning and resource management, good governance, democratic participation and self-reliance;</p> <p>(d) ensure production of safe and quality fish and fishery products;</p> <p>(e) build capacity of the members of the beach management units for the effective co-management of fisheries in collaboration with other stakeholders;</p> <p>(f) prevent, reduce or resolve conflicts in the fisheries sector; and</p> <p>(g) strengthen co-management through the formation of beach management unit networks.</p>
	Regulation	Objective
2)	The Fisheries Management and Development (Safety and Quality) Regulations, 2024.	<p>The objectives of the regulations are to -</p> <p>(a) regulate the handling, storage, and processing of fish by prescribing methods of handling, storage, and processing of fish to support the sustainable development of the fisheries sector;</p> <p>(b) prescribe requirements for governing the safety and quality of fish, fish products, and fish feed by ensuring the production of safe and quality fish and fishery products;</p> <p>(c) provide for the licensing of any person to engage in any form of fishing, or of handling, transporting, processing, or selling of fish products;</p> <p>(d) provide modalities and criteria for organizing and regulating the marketing and distribution of fish; and</p> <p>(e) provide for the prohibition or controlling of the importation, exportation, and introduction into Kenya of live fish of any kind or species.</p>
	Regulation	Objective
3)	Fisheries Management and Development (Marine Fisheries) Regulations, 2024	The objective of these Regulations is to provide a framework to ensure the sustainable and beneficial use of Kenya's marine fisheries resources. These Regulations will strengthen the legal and institutional framework needed to exploit Kenya's potential in the marine fisheries sector and make it substantively contribute to the national development agenda. This

		will be realized through increased fish landings which will in turn translate to increased revenue collection, creation of job opportunities and improved food security.
	Regulation	Objective
4)	The Fisheries Management and Development (Aquaculture) Regulations, 2024.	The purpose of these Regulations is to provide for the participatory conservation of aquaculture resources in Kenya. These Regulations promote the integration of wise-use of aquaculture resources and operations in the local, county and national management for ecological, aesthetic, cultural and socio-economic development. This will lead to the protection of the diversity of aquaculture habitats, flora and fauna.
	Regulation	Objective
5)	The Fisheries Management and Development (Fish Levy Trust Fund) Order, 2024.	The objectives of the regulations are to operationalize the Fish Levy Trust Fund which is intended to - <ul style="list-style-type: none"> (a) promote fisheries management and conservation; (b) mobilize, manage and avail resources for grants, fisheries awards, capacity building and dissemination by expanding access to finances to persons in the fisheries sector including women, youth and persons with disabilities, enterprises or groups and micro, small and medium enterprises for economic growth towards the realization of the goals of promotion of optimum utilization of living fishery resources; (c) provide financial resources for urgent mitigations for climate change and natural disasters that may affect the livelihoods of the fishers; and (d) promote public awareness on fisheries conservation and management
	Regulation	Objective
6)	The Fisheries Management and Development (Recreational Fisheries) Regulations, 2024.	The objectives of the regulations are to- <ul style="list-style-type: none"> (a) provide for the modalities of access of Kenya's fishery waters by the recreational fishers; (b) provide for registration and licensing of recreational fishers;

		<ul style="list-style-type: none"> (c) provide for fees and other charges for the promotion of the development of recreational fisheries; and (d) promote the management and conservation of Kenya fishery waters by recreational fishers.
	Regulation	Objective
7)	The Fisheries Management and Development (General) Regulations, 2024.	<p>The objectives of the regulations are to -</p> <ul style="list-style-type: none"> (a) facilitate proper consultation between the County Governments and the National Government on matters that promote fisheries management and conservation; (b) facilitate proper exchange of information in fisheries management and conservation between the County Governments and the National Government; (c) enable proper coordination, implementation, and administration of the Act and the Regulations made under the Act; and (d) promote public awareness of fisheries conservation and management via licensing and authorization.
	Regulation	Objective
8)	The Fisheries Management and Development (Inland Fisheries) Regulations, 2024	<p>The objectives of the regulations are to -</p> <ul style="list-style-type: none"> (a) provide for modalities of accessing Kenya's inland fishery waters; (b) promote the realization of economic benefits from Kenya's inland fishery resources; (c) provide for fees and other charges for promoting the development of artisanal fishers; (d) promote the management and conservation of inland fishery resources; and (e) strengthen monitoring, control, and surveillance within Kenya's inland fishery waters

CHAPTER 3

BACKGROUND AND CONTEXT

3.1 INTRODUCTION

Kenya's fisheries resources include capture fisheries and aquaculture. The capture fisheries entail the harvesting of naturally occurring fish and aquatic resources in inland (lakes, rivers and dams), coastal and marine (Indian Ocean) fishery waters. Aquaculture is practiced in both fresh and marine waters. The fisheries sector plays a significant role in socio-economic development through employment creation, revenue generation, and food and nutrition security.

The regulations are intended to develop, harness, manage and sustainably regulate capture fisheries and aquaculture while at the same time ensuring the sustainability of the fisheries sector.

3.2 HISTORY OF FISHERIES MANAGEMENT

The history of fisheries management can be traced back to the early 1900s. The colonial government gave prominence to fisheries that were of interest to them namely pearls, beche-de-mer, and ambergris amongst others. Emphasis was on sport fishing enjoyed by settler communities and troops. Consequently, the colonial government enacted the Fish Protection Act (Cap. 379) of the Laws of Kenya in 1902. In 1905, trout were introduced in the rivers around Mt Kenya, as a result, the Trout Ordinance (Cap. 380) in 1948 was enacted. Lake Victoria and Naivasha fisheries were governed using the Victoria Nyanza Fish Protection Rules of 1940 (reprinted 1945) and Lake Naivasha Fish Protection Rules of 1939 respectively.

3.3 FISHERIES RESOURCES

The inland water resources vary in size include lakes, rivers, and small water bodies including dams. Some of the major inland water bodies comprise of Lake Turkana (6,405 km²), Lake Victoria-Kenyan side (4,128 km²), Lake Naivasha (210 km²), Lake Baringo (129 km²), Lake Chala (4.2 km²) and Lake Jipe (30 km²). Major rivers include: Tana (700 km), Athi/Galana/Sabaki (530 km), Ewaso-Ngiro-North (520 km), Kerio (350 km), Suam-Turkwel (350 km), Mara (280 km), Nzoia (240 km), Voi (200 km), Yala (170 km), Ewaso-Ngiro-south (140 km), Sondu (105 km), Malewa (105 km) and Kuja (80 km).

Freshwater bodies provide a habitat for both commercially important and endemic species. Lake Victoria, a shared water body between three states with

Kenya owning (6%), Tanzania (49 %) and Uganda (45%) supports a multi-species fishery with the main commercial species being *Rastrineobola* ("Omena"), Nile perch ("Mbuta"), Nile Tilapia ("Ngege") and *Haplochromis* ("Fulu").

Commercially exploited species in Lake Turkana include; Nile perch (*Lates niloticus*), Tilapia (*Oreochromis niloticus*), Catfish (*Clarias gariepinus*), *Synodontis schall*, *Hydrocynus forskalii*, *Momyrus* spp, *Labeo horie*, *Bagrus* spp, *Distichodus niloticus*, *Citharinus* spp, *citharus*, *Enteromius* spp and *Alestes* spp. While the twelve species endemic to the lake are; *Enteromius turkanae*, *Neobola stellae*, *Brycinus ferox*, *Brycinus minutus*, *Chrysichthys turkanae*, *Aplocheilichthys jeanneli*, *Aplocheilichthys rudolfianus*, *Haplochromis macconneli*, *Haplochromis rudolfianus*, *Haplochromis turkanae*, *Hemichromis exsul*, and *Lates longispinis*.

The main fish species in Lake Naivasha include introduced species such as largemouth bass (*Micropterus salmoides*), *Coptodon zilli*, Louisiana red swamp crayfish (*Procambarus clarkii*) and Common carp (*Cyprinus carpio*). While in Lake Baringo, the main fish species are *Oreochromis niloticus*, *Oreochromis niloticus baringoensis*, *Enteromius gregorii*, *Enteromius lineomaculatus*, *Enteromius intermedius australis*, *Clarias gariepinus*, *Clarias mossambicus* and *Protopterus aethiopicus* (Kimani et al., 2018). The fishery of Lake Kanyaboli are comprise of fish species including *Oreochromis niloticus*, *Protopterus aethiopicus*, *Tilapia zilli*, *Oreochromis esculentus* and *Clarias* spp. The main commercial species caught in catches are Tilapia, *Clarias*, *Protopterus* and *Haplochromis*. The species caught in Lake Jipe and Chala are Catfish (*Clarias gariepinus*), Tilapia (*Oreochromis jipe* and *Oreochromis niloticus*), *Enteromius profundus* and other haplochromines.

The species composition from Lake Kenyatta comprises three groups namely: Tilapia (*Oreochromis niloticus*, *Oreochromis leucosticus*), *Protopterus* spp. and Catfish (*Clarias gariepinus*). Other species includes; *Enteromius apleurogramma*, *Bembrops platyrhynchus*, *Petrocephalus steindachneri* and two species of *Synodontis*. The most important commercial species in the riverine and dams are Tilapia, Common carp (*Cyprinus carpio*) and Catfish (*Clarias gariepinus*). The other commercial species include *Anguilla* spp. (eels), *Enteromius* spp, *Labeo* spp. and *Mormyrus* sp. (Kimani et al., 2018).

Inland water capture fisheries contribute over 70% of Kenya's total national fish production, with the principal fishery being that of Lake Victoria. The annual fish production trend from inland capture fisheries from 2016-2021 was 108,255 MT, 99,758 MT, 109,553 MT, 103,038 MT, 105,641 MT and 115,353 MT progressively (Kenya Economic Survey 2016-2021).

3.4 COASTAL AND MARINE FISHERY

The marine capture fisheries are composed of coastal and near shore artisanal, recreational, semi-industrial and offshore industrial fisheries. In terms of species groups, marine fish production comprises of demersal, pelagic, molluscs, crustaceans, sharks, rays and others. Demersal include rabbitfishes, snappers and scavengers, among other species. The pelagic include tuna and tuna-like (billfishes), mackerels, barracudas, anchovies, sardines, etc. while crustaceans include lobsters, octopus, crabs, prawns and sea cucumber, among other species.

The northern part of the marine fishery waters is part of the Somali upwelling large marine ecosystem which has a rich fishery. Hydro acoustic surveys undertaken indicates high concentrations of deep-water demersal stocks in the North Kenya Banks and deep-water canyons off Lamu (KMFRI, 2018).

In aspirations to develop marine fisheries resources in its EEZ and territorial waters, Kenya is in the process of establishing joint co-management areas, it has developed national domestic fleet in addition to the licensing of the distant water fishing nations (DWFNs) to tap and harness the greatest benefits to the national economy and her people.

Annual fish production from marine fisheries from 2016-2021 was 24,165 MT, 23,786 MT, 24248 MT, 27,740 MT, 25,741 MT and 27,279 MT progressively. Capture fisheries in the marine waters is predominantly undertaken by artisanal fishers in the shallow waters and within the reef using small non-mechanized fishing crafts. The marine artisanal fishery production from 2016-2021 was 24,165 MT, 23,286 MT, 23,145 MT, 25670 MT, 23684 MT and 25,380 MT progressively. The industrial fisheries which comprise of trawling, longlining and pottery from 2016-2021 was 544 MT, 449 MT, 1039 MT, 1994 MT, 1982 MT and 1796 MT while the mariculture recorded 51MT, 64MT, 76MT, 85MT and 103MT progressively in the same period. (Kenya Economic Survey 2016-2022).

3.5 AQUACULTURE

Aquaculture was introduced in the country in 1920s with the introduction of trout fish. Trout fish hatchery was later established in Kiganjo in 1948 to serve the cold-water fishery. In the same year, the colonial government introduced warm-water fish farming in Sagana. A fish farming centre was hence introduced with a warm-water fish hatchery to produce quality broodstock for farmers and provide farmers a capacity building facility.

4.3 OPPORTUNITIES FOR KENYA TO REALIZE THE POTENTIAL FOR MARINE FISHERIES

4.3.1 Location on the Rich Indian Ocean Tuna Migratory Belt

Kenya is a member of the Indian Ocean Tuna Commission (IOTC) which is a FAO approved intergovernmental organization that co-ordinates the regulation and management of tuna in the Indian Ocean. Under the multilateral treaty establishing the Indian Ocean Tuna Commission, Kenya's reporting obligations include giving regular reports on licensed national and foreign fishing vessels, fisheries statistics, data on import of bigeye tuna, interactions with marine turtles, cetaceans and whale sharks, incidental bycatch of seabirds, among others. This information is particularly important not just for reporting purposes but also for putting in place the necessary conservation and management measures.

As noted earlier, Kenya is located on the Indian Ocean Tuna migratory belt that traverses Mauritius, Seychelles, Comoros, Mozambique, Tanzania, Kenya, Somalia, and Maldives. It is also one of the major global upwelling regions, rich in tuna and tuna like species and other fish. The tuna migratory cycle covers one year and therefore lack of adequate capacity to exploit this cycle means that Kenya loses as these high-in-demand species are harvested elsewhere in the belt.

Table 2: Comparing EEZ Fisheries of Kenya, Seychelles, and Mauritius

PARAMETER	KENYA	SEYCHELLES	MAURITIUS
Size of Exclusive Economic Zone (in km ²)	162,794	1,331,964	1,272,765
Primary production (in mg/Cm ² /day)	564.58	357.03	239.37
Total Allowable Catch	300,000	n/a	n/a
Fish Landings per year	1,530MT 2019 No tuna fish processing facility	- 220,000 MT in 2018 (346,000 in 2003) (136,200 MT reported to IOTC by Seychelles (2017) + 98,000MT by Seychelles - based Cannery alone produces 90.000-	18,576 MT domestic catch, and about 200,000 MT total landings from regional fishing. <u>Note:</u> Mauritius Princes cannery turnover is

		110,00MT canned product per year	90,000MT canned fish per year,
Value	US\$ 3 million per year About Kshs 306 million	525 mil US\$/year (exports) (FAO country report 2019)	600 mil US\$/year (Mauritius fisheries masterplan) Mauritius Seafood Hub turnover is about 285 mil US\$
State Revenue	0.2% of value of catch. (maximum license fee -US\$ 50,000 per purse seine, catching about 7,500MT annually)	12-13% of gross revenue from fisheries (licenses, levies, access agreements)	10-11% of gross revenue from fisheries (licenses, levies, access agreements)

Source: http://www.seaaroundus.org/sea-around-us-area-parameters-and-definitions/#_Toc421807913 on 2 March 2022

Table 2 clearly shows that, despite Kenya having a smaller Exclusive Economic Zone (EEZ), it has a much higher potential that remains unexploited to date. Seychelles and Mauritius, whose EEZs are not within the upwelling region but are in the same tuna fishery migratory pathway lands much higher quantities of fish. Seychelles lands about 220,000 MT annually, while Mauritius has a vibrant fisheries hub that lands at least 200,000MT annually. Both countries have built robust fisheries industries, including the top 10 canneries globally, with the same tuna resource.

4.3.2 Contribution to Revenue

Kenya's marine fishery industry continues to perform dismally in terms of contributing to national economic development. Several scientific studies by the Food and Agricultural Organization (FAO) and other organizations have consistently estimated Kenya's annual potential catch (total allowable catch (TAC)) of fish in our part of the Indian ocean at between 150,000 MT to 300,000 MT, valued at least Kshs 100 billion annually. This fish, if it was landed and value-added on Kenya's shores, has the capacity to create at least 60,000 direct and

indirect jobs, and contribute at least Kshs 5 billion to the state revenue annually. This revenue is sufficient to not only finance all costs related to fisheries management, but also contribute to other national development priorities.

Unfortunately, the country lands about 1,530 MT fish from foreign distant waters fishing nations (DWFN) fleet in the EEZ, valued at about Kshs 306 million, which presents about 0.68% of the country's potential earnings (estimated at about Kshs 45 billion). The amount of fish caught in Kenya's EEZ by foreign fleet is however much higher, as most vessels tranship in deep waters or sail away with their catch to land in other ports in the region, and international markets. Cumulatively, Kenya has lost at least Kshs 2 trillion in potential earnings from fisheries resources since the United Nations Convention on the Law of the Sea (UNCLOS) was adopted in 1982, and about 60,000 jobs annually.

The Southwest Indian Ocean Commission recommends that coastal states should recover at least 12% of their total EEZ fisheries value as state revenue. However, Kenya is recovering about 0.2% of its EEZ fisheries value as state revenue. The country therefore losses about Kshs 5.4 billion annually which could have been paid as taxes and levies by companies that exploit Kenya's EEZ fisheries.

4.3.3 Failure to Exploit Sport and Deep-Sea Fishing

Kenya is renowned as a top deep-sea fishing destination on the coast of East Africa. Deep-sea and sport fishing along the Kenyan coast dates back to the days of Ernest Hemingway in the 1930s and became well established in the 1950s and more prominent in the mid-1980s due to increased tourism. Kenya is one of the few countries including Seychelles, Mauritius, Mozambique and South Africa in the Western Indian Ocean with the unique sport and recreational billfish fishery (Pepperell et al., 2017). In addition, the presence of six types of billfish species (blue marlin, black marlin, swordfish, striped marlin, sailfish, and the short-billed spearfish) makes Kenya a destination for sport fishing competitions. Several records have been set by anglers by catching a fantasy slam (consisting of 5 billfish species), a grand slam (3 different billfish species), or a record grander (a marlin weighing 1000 pounds or more). This spurred sport fishery for billfish in the late 1980s. Much of the fishery for billfish exists as catch and release after tagging African Billfish Foundation in Watamu. The data on the movement of the species can be used to understand migratory and feeding movements, daily habits, and survival rates after release. Major billfish fishing zones in Kenya include fishing grounds off Watamu, Malindi, Kilifi, Diani, Shimoni and Lamu which have representative sport fishing clubs.

Given that fishing effort on billfish is largely focused on industrial fisheries, the growing interest along with other competing resource users such as artisanal and sport fisheries have the potential to increase fishing pressure on these fisheries. The tourism and lifestyle potential of this phenomena have declined and remains largely unexploited or is exploited by only a few players, reducing their possible impacts to the wider community and the country.

4.3.4 Reliance on Annual Licensing Regime

Kenya has been using licensing as a management tool to control access to her marine fisheries for a long time. This management approach has not been effective in addressing the challenge of overfishing in Kenya's coastal waters. Fish stocks in the coastal waters continue to dwindle. Besides overfishing, transshipment is another challenge affecting marine fisheries. Whereas transshipment is banned by the Fisheries Management and Development Act, Cap. 378 mechanisms for enforcing landing of fish caught in the EEZ are lacking thus leading to continued transshipment of fish caught in Kenya's EEZ in breach of the provisions of the Act. The Distance Water Fishing Nations (DWFNs) do not submit full and correct data on what they catch which in turn contributes to loss of revenue.

4.3.5 An Under-Developed Fishing Sector

Most of the marine fish harvested in Kenya is by artisanal fishermen who restrict their operations within a few kilometres from the coastline as they are not sufficiently equipped to venture into the deep sea. There are, however, several commercial fishermen operating modern fishing vessels that trawl prawns along the Kenyan coast. The main challenges facing fishermen are acquisition of efficient fishing gears such as motorized boats, and ice for the storage of their catch. The fishing industry's contribution to the economy remains low. The low contribution to the economy contributes to low budgetary support to the sector leading to insufficient empowerment of the fisher folks and weak fishing organizations. Weak fishing organizations are unable to add value such as fish storage, processing, packaging, net-making, boat building and restaurants business.

This vicious cycle must be broken by attaining self-sustenance of the sector through transformation from the licensing regime to a right-based system for fisheries management where affordable levies and fees are charged to all fishers based on the value of total landed fish.

4.3.6 Illegal Unregulated and Unreported (IUU) Fishing

Apart from denying the country the much-needed revenue base, IUU creates the risk of overfishing and depleting certain species of fish besides other international crimes including piracy and drug trafficking. The Regulations propose to introduce a scientifically derived quota system based on total allowable catch for all categories of fishers. This is expected to promote sustainability and curb overfishing. This is one of the main premises upon which the Fisheries Management and Development (Beach Management Units) Regulations, 2024.

4.4 SUMMARY OF THE CHALLENGES AFFECTING THE FISHERIES SECTOR

The fisheries sector is affected by many challenges that limit the full realization of socio-economic benefits to the country. The challenges include:

4.4.1 DECLINING FISH STOCKS

The main causes of declining fish stocks include: overfishing, inadequate management capacity, weak governance, invasive weeds and alien fish species and environmental degradation.

4.4.2 LIMITED CAPACITY TO UTILIZE EEZ AND HIGH SEAS FISHERIES RESOURCES

Kenya's fisheries resources include 200 nautical miles of the EEZ which is underutilized due to limited capacity to maximize exploitation of fisheries resources in the EEZ and low investment in deep sea fishing.

4.4.3 LOW ADOPTION OF AQUACULTURE TECHNOLOGIES

Some of the technologies whose adoption is low include: Recirculating Aquaculture Systems, cage culture, aquaponics, breeding and feed formulation. In the fisheries sector, there is inadequate application of modern technologies and innovations that can increase productive capacity. The most affected actors are the small-scale fish farmers whose level of adoption is low which compromises efficiency in fisheries value chain operations. The low adoption is caused by low levels of education, high cost of input, limited awareness of the technologies available and limited appropriate financing mechanisms.

4.4.4 POOR MARKETING SYSTEM

Weak fish marketing systems affect competitiveness of fish and fishery products locally, regionally and internationally. The challenges are as a result of: inefficient marketing information systems, inadequate fish aggregation practices, weak value chain organizations and low capacity for value addition to enhance competitiveness.

4.4.5 INADEQUATE CAPACITY FOR FISH QUALITY ASSURANCE

Fish handling and value addition practices among the small-scale operators are generally weak, thus limiting the value proposition of the commodities. The challenges that affect fish quality and value include: lack of accredited

laboratories, inadequate fish handling infrastructure/facilities and failure to comply with standards and product certification schemes.

4.4.6 INADEQUATE DEVELOPMENT IN FISHERIES AND AQUACULTURE INFRASTRUCTURE

Infrastructural facilities to support development in fisheries and aquaculture are inadequate along the value chain segments. Some of the infrastructural challenges include: inadequate landing stations; poor beach access roads; inadequate market outlets; inadequate fishing port facilities; inadequate MCS infrastructure; communication infrastructure; limited electricity and water connection and inadequate cold chain facilities.

4.4.7 INADEQUATE INVESTMENTS AND FINANCING

Businesses opportunities in the fisheries sector experience low investments due to perceived high risks and limited information on the economic value of fisheries resources. In addition, there is limited entrepreneurial skills among the fishers thereby hindering their access to financial and insurance products. Limited capacity in technology use also affects access to appropriate financing.

4.4.8 INADEQUATE KNOWLEDGE AND SKILLS

There is a need for continuous learning and improvement to adjust to the dynamic fisheries sector. New fishing technologies are emerging to address the challenges. However, there is inadequate capacity among the fishers to embrace the new skills and knowledge to remain afloat. These capacity gaps include: inferior fishing methods; inadequate value addition skills; limited fisheries training and skill development institutions and inadequate infrastructure and human incapacity to effectively utilize fisheries resources.

4.4.9 WEAK AND INADEQUATE LEGAL FRAMEWORK

The FMDA has not been fully operationalized through the development of regulations and guidelines. The applicable regulations are those which were developed under the repealed Act and do not support the progressive provisions in the new Act. The Constitution prescribes that the legislative process should involve public participation and stakeholder engagement. This process is costly and lengthy which impedes speedy implementation of FMDA. Other challenges include: non-alignment of policies and legal instruments to the devolved functions; duplication and overlap of institutional mandates under the FMDA; weak compliance to existing laws, standards and guidelines and weak collaborative framework among agencies.

4.4.10 INADEQUATE FUNDING FOR RESEARCH AND EXTENSION

Research generates information that informs policy decision making. However, there is inadequate funding for research to inform policy and management decisions in the sector. There also exists weak research-extension nexus due to inadequate platforms for dissemination of research information and weak linkages between research and extension services.

4.5 CONCLUSION

These regulations will strengthen the legal and institutional framework needed to exploit Kenya's potential in the marine fisheries sector and make it substantively contribute to the national development agenda. This will be realized through increased recreational fish landings and effective beach management which will in turn translate to increased revenue collection and job opportunities.

CHAPTER 5

POLICY AND LEGAL FRAMEWORK FOR THE REGULATIONS

5.1 INTRODUCTION

The dynamism in the fisheries sector is governed by a number of national, regional, continental and international policy, legal and institutional frameworks. This Chapter sets out the policy, legal and institutional framework for the fisheries sector in Kenya.

5.2 INTERNATIONAL PROTOCOLS, CONVENTIONS AND AGREEMENTS

Kenya is a signatory to a number of regional and international Conventions, Agreements and Protocols that govern fisheries and aquaculture management and development. These include the United Nations Convention on the Law of the Sea (1982)(UNCLOS), Convention on International Trade in Endangered species of Wild Fauna and Flora (CITES), Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention), Port State Measures Agreement (PSMA) against Illegal, Unreported and Unregulated Fishing (IUU) 2009, International Convention for Regulation of Whaling, 1946 and the United Nations Fish Stock Agreement (UNFSA) for Straddling and Highly Migratory Fish, 1995, among others.

In September 2018, the High-Level Panel for Sustainable Ocean Economy (HLP) was established by serving world leaders from twelve (12) countries who are building momentum for a sustainable ocean economy in which effective protection, sustainable production and equitable prosperity go hand in hand. By enhancing humanity's relationship with the ocean, bridging ocean health and wealth, working with diverse stakeholders, and harnessing the latest knowledge, the initiative aims to facilitate a better, more resilient future for people and the planet.

Consequently, under the Malabo declaration (2014), the African heads of states and government took cognizance of the limited investment in the agricultural sector and committed themselves to allocate at least 10 percent of the national budget to the sector. This initiative led to the 2050 Africa Integrated Maritime Strategy (AIMS), among other initiatives.

Kenya is a member of regional fisheries bodies such as the Indian Ocean Tuna Commission (IOTC), International Whaling Commission (IWC), Lake Victoria Fisheries Organization (LVFO), South West Indian Ocean Fisheries Agreement (SIOFA), Southwest Indian Ocean Fisheries Commission (SWIOFC), Indian Ocean Rim Association (IORA), Committee of Fisheries (COFI), and Committee for Inland Fisheries and Aquaculture of Africa (CIFAA), Blue Ports Initiative (BPI) and Intergovernmental Oceanographic Commission of UNESCO (IOC-UNESCO) amongst others. Other bodies that support fisheries management and research includes: International seabed Authority (ISA), Western Indian Ocean Marine Science Association (WIOMSA), United Nations Environment Programme (UNEP), Nairobi Convention, FAO, JICA, EU, GIZ and World Bank, AU-NEPAD, COMESA, ILO, WTO and CITES among others.

5.3 POLICY FRAMEWORK

The fisheries sector is guided and takes cognizance of existing national development plans, strategies and policies in the management and development of the sector. The plans, strategies and policies for the fisheries sector includes the: -

1. Sustainable Development Goals (SDGs)
2. Policy Framework and Reform Strategy for Fisheries and Aquaculture in Africa, 2014;
3. Kenya Vision 2030;
4. Agriculture Sector Transformation and Growth strategy, 2019-2029;
5. Agriculture Sector Development Strategy, 2010;
6. Agricultural Policy, 2021;
7. National Aquaculture policy, 2011;
8. National Aquaculture Strategy and Development Plan, 2012;
9. Kenya Climate Smart Agriculture Strategy 2017-2026;
10. National Fishing Fleet Development Plan, 2014;
11. Kenya Youth Agribusiness Strategy 2018-2026; and
12. Tuna fishery management and development strategy, 2013.

5.4 CONSTITUTIONAL MANDATE

The national values and principles of governance set out under Article 10 (2) of the Constitution recognizes human dignity and sustainable development as binding the State in the making and implementation of public policy. These values are further amplified in the Bill of Rights, specifically under Article 42 and Article 43 (1) (c) which provides that every person has the right to a clean and healthy environment and the right to be free from hunger, and to have adequate food of acceptable quality, which includes the right to have the

environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69 and to have obligations relating to the environment fulfilled under Article 70.

Article 69 of the Constitution places the following obligations on the State regarding the environment:

- (a) ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;
- (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;
- (c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;
- (d) encourage public participation in the management, protection, and conservation of the environment;
- (e) protect genetic resources and biological diversity;
- (f) establish systems of environmental impact assessment, environmental audit, and monitoring of the environment;
- (g) eliminate processes and activities that are likely to endanger the environment; and
- (h) utilize the environment and natural resources for the benefit of the people of Kenya.

Article 70 provides for enforcement measures and grants the court the power to order for redress and compensation. Article 71 requires that any transaction that involves the grant of a right or concession by or on behalf of any person, including the national government, to another person for the exploitation of any natural resource of Kenya shall be subject to ratification by Parliament. Article 72 requires Parliament to enact legislation to give full effect to the constitutional provisions.

The Fourth Schedule recognizes fisheries as a devolved function whereas fishing, hunting and gathering is a national government function.

5.5 LEGAL FRAMEWORK GOVERNING THE FISHERIES SECTOR

5.5.1 Maritime Zones Act (Cap. 371)

This is the principal Act of Parliament which consolidates the law relating to the territorial waters and the continental shelf of Kenya. It provides for the establishment and delimitation of the exclusive economic zone (EEZ) of Kenya and for the exploration, exploitation, conservation, and management of the

6.4 PUBLIC CONSULTATION APPROACH AND METHODOLOGY

The Ministry adopted the following methodology for purposes of public participation and inclusivity:

- (a) The Draft Regulations and the Regulatory Impact Statement were posted on the Ministry's website inviting representations generally and specifically from the identified stakeholders. For purposes of better engagement, popular versions of the Regulatory Impact Statements for some of the regulations were developed and used during the public participation and stakeholder engagement fora.
- (b) The stakeholders were notified of the regulation-making process and invited to give submissions on the draft Regulations and RIS within a specified reasonable period;
- (c) Physical and virtual meetings with select stakeholders were held to discuss the draft regulations and the RIS.

Based on the above approach, numerous meetings were held between the Ministry and key stakeholders. The Ministry also received written representations. The list of stakeholders engaged is provided in the *report in Annexure 2*.

6.5 REPORT ON THE STAKEHOLDER CONSULTATIVE PROCESS

A report on the stakeholder consultative sessions containing an analysis of comments and how they were considered and incorporated into the draft Regulations was prepared. The report also explains how the consultative process was conducted. The report is annexed to this report as a separate document as *Annexure 2*.

CHAPTER 7

AN OVERVIEW OF THE REGULATIONS

REGULATION 1: THE FISHERIES MANAGEMENT AND DEVELOPMENT (BEACH MANAGEMENT UNITS) REGULATIONS, 2024

In exercise of the powers conferred by **section 37** of the Fisheries Management and Development Act, the Cabinet Secretary for Mining, Blue Economy, and Maritime Affairs makes the Fisheries Management and Development (Beach Management Units) Regulations, 2024. The regulations provide for the following salient features:

Establishment of Beach Management Units

The County Executive Committee Member responsible for fisheries management is to establish a beach management unit for a designated fish landing station. The beach management unit should not be a political or religious body. The beach management unit shall be responsible to its members and to the County Executive Committee Member for ensuring the orderly, safe and effective use, management and operation of the fish landing station over which it has jurisdiction. The beach management unit shall—

- (a) support collection, collation and submission of fishing and fisheries related data to the County Executive Committee Member and the Director-General of Kenya Fisheries Service;
- (b) ensure that the fish landing station, together with any structures or buildings situated thereon, is kept in a clean, tidy and hygienic condition;
- (c) ensure adequate security at the fish landing station and any fishing vessels, nets or other equipment or structures within its boundaries;
- (d) ensure compliance with applicable hygiene standards in connection with the landing storage and safety of fish and fishery products;
- (e) in conjunction with other relevant agencies, maintain safety and order at the fish landing station;
- (f) maintain any building or structure on the fish landing station;
- (g) promote the marketing of fish including the construction and supply of marketing facilities and organizing fish auctions;
- (h) provide training to its members on climate resilient fishing practices and technologies, good and acceptable fishing techniques, marketing and processing of fish, financial management and other areas relevant to fisheries; and
- (i) ensure the safety of its members by monitoring the seaworthiness of fishing vessels, taking measures to ensure the members comply with applicable safety regulations and promoting and improving the welfare and wellbeing of its members by supporting the activities of fisher cooperative societies among others.

Registration of Beach Management Units

An application for registration of a beach management unit shall be made to the County Executive Committee Member through the county director of fisheries by a group of persons above the age of eighteen who intend to practice legal fishing and legal fisheries activities. The county director for fisheries is to establish and maintain an electronic and manual register of beach management units registered within a county.

The membership of the beach management unit shall comprise of boat owners, crew members, fish traders and foot fishers.

By-laws of Beach Management Units

A beach management unit ought to develop its by-laws which may be amended, where need be, by submitting a copy of the proposed amendments to the county director of fisheries for approval. In considering the application for amendment, the County Director shall determine:

- (a) whether the proposed amendment complies with the Act, these Regulations and any other relevant legislation; and
- (b) whether the proposed amendment is in accordance with the objectives of the beach management unit.

A beach management unit dissatisfied with the decision of the county director of fisheries may appeal to the County Executive Committee Member whose decision shall be final.

Co-Management Areas

The CEC member is to designate an area as a co-management area where fisheries or fishing is to be done by the members of more than one beach management unit. A co-management plan shall, upon designation of a co-management area and in consultation with the Director-General and relevant beach management units, develop a co-management plan for the respective co-management area. The co-management plan shall specify—

- (a) the fisheries management measures that are to be undertaken to ensure the sustainable utilization of fisheries in that area;
- (b) the designation of closed areas in which all fishing activities or specified fishing activities are prohibited;
- (c) the designation of fish breeding and nursery areas in which all fishing activities are prohibited;
- (d) the designation of closed seasons either throughout the co-management area or in respect to specified areas;
- (e) the marking of fishing vessels;
- (f) demarcation and marking of the boundaries of fish breeding and nursery grounds; and
- (g) restrictions on the number of fishing vessel licenses or fishing licenses that may be issued.

Administrative Structure of a Beach Management Unit

The administrative structure of a beach management unit shall consist of the assembly of all registered members, the executive committee of fifteen members elected by the assembly and such other sub-committees as may be specified in the Regulations and the by-laws of the beach management unit.

Management of Finances of a Beach Management Unit

The finances of a beach management unit shall consist of:

- (a) revenue and fees collected for services rendered by the beach management unit;
- (b) any grants or donations given to the beach management unit; and
- (c) such monies that may accrue to a beach management unit in the discharge of its functions.

A beach management unit shall ensure proper management of its finances and assets by—

- (a) establishing a reserve fund to cover the costs of unforeseen events; and
- (b) under the guidance of the county executive committee member, establishing an appropriate financial management system to support its financial operations including withdrawal of beach management unit's funds.

A beach management unit may, with the prior written approval of the county director of fisheries and the assembly, levy fees and charges in respect of the operation and management of the beach and its participation in co-management activities. The fees and charges shall come into effect upon approval of the by-laws by the County Executive Committee Member.

The fees may include—

- (a) membership fee payable by all members;
- (b) an annual registration fee for fishing vessels;
- (c) a registration fee for new members;
- (d) landing fees payable by fishing vessels that land fish or fishery products at the fish landing station;
- (e) charges for the use of facilities and services provided by the beach management unit;
- (f) a rental fee in respect of buildings and constructions owned by beach management units on the fish landing station; and
- (g) a marketing fee payable by persons involved in the trading of fish.

REGULATION 2: THE FISHERIES MANAGEMENT AND DEVELOPMENT (SAFETY AND QUALITY) REGULATIONS, 2024.

The purpose of these Regulations is to operationalize section **58(4) and 208** of the Fisheries Management and Development Act, Cap 378. These Regulations seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through proper governance of the sector. The Regulations will bring to effect section 58(4) and 208 of the Fisheries Management and Development Act, Cap 378.

The ideation process to establish the Fisheries Management and Development (Safety and Quality) Regulations, 2024 was to give effect to the provisions of section 5 (1) of the Act which provides that “the objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities, to introduce fishing to traditionally non-fishing communities and to enhance food security. Similarly, these Regulations seek to give effect to section 58(4), 208(2)(d), 208(2)(d) 208(2)(e) 208(2)(g) 208(2)(j) and 208(2)(r) of the Act.

These Regulations provide a platform where the County Governments and the National Government can address issues of governance, coordination, fish traceability, fish movement, safety and quality assurance.

REGULATION 3: THE FISHERIES MANAGEMENT AND DEVELOPMENT (MARINE FISHERIES) REGULATIONS, 2024

The objective of these Regulations is to provide for a framework to ensure sustainable and beneficial use of the Kenya marine fisheries resources as provided for in **section 208** of the Act. These Regulations will strengthen the legal and institutional framework needed to exploit Kenya’s potential in the marine fisheries sector and make it substantively contribute to the national development agenda. This will be realized through increased fish landings which will in turn translate to increased revenue collection, job opportunities and food security.

Kenya has full jurisdiction and exercises sovereign rights over all her fishery resources, fishing and fishing-related activities, utilization of fish and genetic material derived from fish, persons (including non-citizens) and vessels (including foreign vessels) who access the Kenya fishery waters, among others in accordance with Section 4 of the Fisheries Management and Development Act, Cap. 378. These Regulations seek to protect, manage, use, and develop the marine resources in a manner that is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities, and to ensure optimum utilization of the living resources in the exclusive economic zone.

REGULATION 4: THE FISHERIES MANAGEMENT AND DEVELOPMENT (AQUACULTURE) REGULATIONS, 2024

The purpose of these Regulations is to provide for the participatory conservation of aquaculture resources in Kenya as provided for in the Fisheries Management and Development Act Cap. 378 in **section 74 (1) and (2)**. These Regulations promote the integration of wise-use of aquaculture resources and operations in the local, county and national management for ecological, aesthetic, cultural and socio-economic development. This will lead to the protection of the diversity of aquaculture habitats, flora and fauna.

Aquaculture is one of Kenya's fisheries resources. Aquaculture has grown with significant forward and backward linkages particularly due to increased demand for aquaculture inputs that gave rise to establishment of fish-feed cottage industries, private fish seed production hatcheries, increased demand for skilled labour for pond construction and fish handling, aqua-shops and fish trade.

The low adoption of aquaculture technologies includes aquaponics, cage culture, aqua parks, breeding and feed formulation. There is also inadequate application of modern technologies and innovations that can increase productive capacity and the most affected are the small-scale fishers whose level of adoption is low which compromises efficiency in fisheries value chain operations.

The introduction of these Regulations will result in efficiency and effectiveness in the value chain operations and increased productive capacity.

REGULATION 5: THE FISHERIES MANAGEMENT AND DEVELOPMENT (FISH LEVY TRUST FUND) ORDER, 2024

The purpose of this Order is to operationalize section 28 of the Fisheries Management and Development Act, Cap 378. This Order seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through sustainable financing.

The Oder will bring to effect section 208 of the Fisheries Management and Development Act, Cap 378. Moreover, the Fish Levy Trust Fund is established under Section 28(1) of the Fisheries Management and Development Act 2016. Section 28(3) provides that the object of the Fund shall be to provide supplementary funding for activities geared towards management, development and capacity building, awards, and urgent mitigation to ensure the sustainability of the fisheries resource.

The ideation process to establish a Fish Levy Trust Fund was necessitated by the need for a Fund for the sustainability of fisheries development activities initiated by the Lake Victoria riparian countries and supported by the Lake Victoria Environmental Management Programme (LVEMP). Each member State

at the time was mandated to establish a Fish Levy Fund to be held in a trust. The Fund was to be sourced from a percentage levy sourced from the fish producers, traders and exporters. The Fund was envisioned as a collaborative effort to foster development while utilizing the available Fisheries Co-management Strategies put in place by the various Member State governments.

Hitherto, Kenya did not have a fish levy fund hence levies have not been charged on fishing and fishing-related activities. This resulted in a gap in supplementary funding for fisheries management, development, and capacity building.

In 2016, the Fish Levy Trust Fund was established under section 28 of the Fisheries Management and Development Act Cap. 378 to provide supplementary funding for activities geared towards management, development and capacity building, awards and urgent mitigation to ensure the sustainability of the fisheries resource. The Fund is administered by a 5-member Board of Trustees nominated through an open and competitive process that meets the requirements of Chapter 6 of the Constitution. As such, it became necessary to operationalize the Fund through the development of the Fish Levy Trust Fund Order, 2024.

The Fund shall be applied to activities geared towards management, development and capacity building, awards, and urgent mitigation to ensure the sustainability of the fisheries resources. Whereas an administration fee will apply, borrowed funds will be repaid without charging interest. This will facilitate the stakeholders such as Beach Management Units, fishing crews, traders, and processors to pool resources to buy equipment such as fishing gear, boats, and refrigerating facilities among others.

To ensure equity in the development of every segment of the fisheries sector, the Order proposes that any person will be eligible to access the Fund as long as the purpose for obtaining the Fund is to fulfil the object of the Fund.

REGULATION 6: THE FISHERIES MANAGEMENT AND DEVELOPMENT (RECREATIONAL FISHERIES) REGULATIONS, 2024

These regulations have been developed in the exercise of powers conferred to the Cabinet Secretary for mining, blue economy, and maritime in **section 208(2)(m)** of the Fisheries Management and Development Act, Cap. 378. The regulations provide for the following salient features:

Licensing and Conditions of Recreational Fishing

Anyone desiring to participate in recreational fishing within Kenyan fishery waters must request a recreational fishing permit from the relevant County Government where the fishing activity is planned. Upon payment of the specified fees outlined in the Second Schedule, the County Executive Committee Member will grant the recreational fishing license. Engaging in recreational fishing

without this license constitutes an offence, and upon conviction, the individual may face a fine of up to twenty thousand shillings.

Registration of Recreational Fishing Vessels and Sports Fishing Club

It is prohibited to utilize a recreational fishing vessel for fishing within Kenyan fishery waters without possessing a registration certificate. Before applying for registration of a recreational fishing vessel, the vessel owner must ensure the following:

- (a) The vessel has been assessed by the beach management unit to which the owner belongs, adhering to the unit's regulations.
- (b) The vessel has been inspected by a fisheries officer.

To apply for registration of a recreational fishing vessel, the owner must apply to the County Executive Committee Member providing the following details:

- a) Number of recreational fishing vessels owned.
- (b) Technical specifications of the vessel, including length and engine power.
- (c) Vessel location.
- (d) Area of operation.
- (e) Any other pertinent information deemed necessary by the County Executive Committee Member.

The application must be accompanied by a certificate of seaworthiness issued by the Kenya Maritime Authority.

Upon issuance of the registration certificate, the County Executive Committee Member will assign an identification mark to the vessel and ensure the allotted identification mark is recorded in the register of recreational fishing vessels. Any violation of sub-regulation (1) constitutes an offence, punishable upon conviction by a fine not exceeding one hundred thousand shillings, imprisonment for a maximum of one year, or both. The County Executive Committee Member must maintain a register of all recreational fishing vessel licenses issued within the county. A holder of a recreational fishing license may join a sport fishing club or a fishing camp.

Conditions for Recreational Fishing

Recreational fishing participants must adhere to several conditions, including potentially being a member of a sport fishing club or fishing camp if required, using only hook and line or trolling line equipment, refraining from buying or selling fish caught during recreational fishing activities, practicing catch-and-release fishing whenever feasible except in cases where fish are injured or killed during the process, limiting the landing to three pieces per permit per fishing day if fish are harmed, paying a fee of 7% of the landed value to the respective county government, and exclusively employing artificial fly as bait. Failure to

comply with these regulations may result in conviction and a fine as stipulated under section 106(2) of the Act.

Transfer of Recreational Fishing Vessel Registration Certificate.

In the event of a change in ownership of a registered recreational fishing vessel, both the seller (transferor) and the buyer (transferee) must together apply for the transfer of the recreational fishing vessel certificate to the County Executive Committee Member. Upon approval of the transfer application, the County Executive Committee Member will cancel the previous owner's name from the register and update the register with the new ownership details.

Validity of Recreational Fishing License

A recreational fishing license will be effective within the designated area as stated on the license and can be issued under the following categories:

- (a) an annual license, valid until December 31st of the year it is issued;
- (b) a monthly license, valid for thirty consecutive days from the date of issuance;
- (c) a weekly license, valid for seven consecutive days from the date of issuance;
- or
- (d) a daily license, valid only for the specified day indicated on the license

Fishing gear, Area and Species Restrictions

Total allowable catch means the maximum amount of a particular species of fish that can sustainably be harvested annually or in one fishing season from any fishing area, or from any fishery species or group of fishery species, or a combination of area and species and guided by scientific advice for purposes of sustainable fishing. These regulations specify the fishing gear permitted for recreational fishing for angling; the regulations recommend the use of hook and line; trolling line; or rod and reel. They also permit fly fishing. Anyone found to be in violation of this regulation will be deemed to have committed an offence and, upon conviction, may face a fine of up to one hundred thousand shillings or imprisonment for a maximum term of one year, or both.

Engaging in recreational fishing within an area designated as a protected area or prohibited by the management plan of that area is strictly prohibited. Offenders caught contravening this regulation may face penalties of a fine not exceeding twenty thousand shillings, imprisonment for a period not exceeding three months, or both. Additionally, participating in recreational fishing activities targeting species declared as protected is prohibited. Those found in breach of this regulation could be subject to a fine not exceeding twenty thousand shillings, imprisonment for a maximum term of three months, or both, upon conviction.

REGULATION 7: THE FISHERIES MANAGEMENT AND DEVELOPMENT (GENERAL) REGULATIONS, 2024.

The purpose of these Regulations is to operationalize section 28 of the Fisheries Management and Development Act, Cap 378. These Regulations seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through proper governance of the sector specifically standardization of licence application, registration and enforcement of conditions on any licence, permit and authorization of registration certificates.

REGULATION 8: THE FISHERIES MANAGEMENT AND DEVELOPMENT (INLAND FISHERIES) REGULATIONS, 2024

The purpose of these Regulations is to operationalize section 208 of the Fisheries Management and Development Act, Cap. 378. These Regulations seek to promote sustainable fisheries management and development in the Kenyan Inland Fishery waters of the lakes, rivers, dams, and other inland fishery water bodies. Inland Kenyan fishery waters are mostly artisanal fishers. These Regulations seek to provide how the artisanal fishers shall conduct their fishery activities within the inland waters. The Regulations therefore have the sole purpose of improving the fisherfolks' livelihoods through proper governance of the sector by regulating the registration of inland fishing vessels, licensing of artisanal fishers, conditions for freshwater ornamental fisheries, and crustacea dealer's license and the conservation and management measures in inland fisheries.

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CHAPTER 8

THE COST-BENEFIT ANALYSIS FOR REGULATIONS

8. 1 INTRODUCTION

This Chapter seeks to assess the changes proposed by the regulations in terms of their costs and benefits to justify the proposals pursuant to Section 7(d) of the Statutory Instruments Act, Cap 2A.

8.2 MATRIX OF BENEFITS AND COSTS ON THE REGULATIONS

The analysis of the expected costs and benefits of the regulations contained in this Chapter seeks to answer the question of whether the benefits justify the costs. This would enable the Regulation-Making Authority to estimate the total expected cost and benefit of every aspect of the Regulations.

The objective of the Regulations is to give full effect to the Act. Specifically, the Regulations aims to: -

- (a) provide for sustainable management and development of fisheries and aquaculture to contribute to food and nutritional security, creation of employment opportunities, wealth creation and revenue generation and strengthening of the ecosystems approach to fisheries management that provides holistic approach to fisheries resource management;
- (b) promote the use of scientific information in management measures based on best available scientific and indigenous knowledge;
- (c) entrench the Polluter Pay Principle among fisheries resource users; and
- (d) promote respect for cultures, recognizing within the framework of human rights as existing forms of organizations, traditions, local norms and practices as well as customary rights of small-scale fishing communities including indigenous people.

In considering the benefits for the Regulations, the key questions to be answered include: -

- (a) How can Kenya increase its earnings and utilize the underexploited areas such as aquaculture and fishing in the Exclusive Economic Zone (EEZ)?
- (b) What measures are intended to increase landed catch in order to maximize foreign exchange earnings by companies fishing in Kenya's EEZ, create employment, develop local marine fisheries and enhance food security?

- Kenyans will benefit greatly from the Regulations. The Regulations will-
- (a) enhance food and nutrition security, create employment and wealth generation;
 - (b) promote conservation and management of aquatic resources;
 - (c) develop capacities for fisheries and aquaculture development at the national and county levels; and
 - (d) promote and strengthen evidence-based research and development in fisheries and aquaculture sector.

Table 3: Summary of Costs and Benefit Analysis per Regulation

Regulation	Cost	Benefit
<p>The Fisheries Management and Development (Beach Management Units) Regulations, 2024.</p>	<ul style="list-style-type: none"> ▪ Administrative Costs related to Demarcation of landing sites. ▪ Training and Capacity Building. ▪ Infrastructure Development for infrastructure such as BMU offices, landing sites, storage facilities, and market facilities to support the functioning of BMUs and improve the overall efficiency of the fisheries sector. ▪ Increased enforcement efforts including patrols, monitoring, surveillance, and prosecution 	<p>Sustainable Fisheries Management through the establishment of Beach Management Units (BMUs). This can lead to the conservation of fish stocks, ensuring they remain healthy and abundant for future generations.</p> <p>Enhanced Livelihoods by effectively managing fisheries resources.</p> <p>Improved Food Security, Fisheries play a crucial role in providing a source of protein and nutrition for many people.</p> <p>Economic Development and sustainable fisheries management by creating employment</p>

	<p>of illegal fishing activities.</p> <ul style="list-style-type: none"> ▪ Monitoring and Evaluation costs 	<p>opportunities within the fishery industry and related sectors.</p> <p>Environmental Protection, effective management of fisheries can have positive environmental impacts by reducing overfishing, habitat destruction, and bycatch.</p> <p>Regulatory Compliance, the establishment of clear regulations and enforcement mechanisms can promote compliance.</p>
<p>The Fisheries Management and Development (Safety and Quality) Regulations, 2024.</p>	<ul style="list-style-type: none"> ▪ Compliance Costs, ▪ Monitoring and Inspection Costs, ▪ Testing and Certification Costs, ▪ Training and Capacity Building, ▪ Infrastructure development, ▪ Administrative and enforcement Costs, ▪ Potential Market Disruption during the initial stages of implementation. 	<p>Improved Public Health by establishing regulations related to the safety and quality of fish products, consumers can have increased confidence in the seafood they purchase and consume.</p> <p>Increased Market Access, adherence to international safety and quality standards can facilitate market access for fish products in both</p>

		<p>domestic and international markets.</p> <p>Reduction of wastage through implementing regulations that require proper handling, storage, and transportation of fish products to maintain their quality, the regulations can help reduce food waste.</p>
<p>Fisheries Management and Development (Marine Fisheries) Regulations, 2024</p>	<ul style="list-style-type: none"> ▪ Administrative Costs. ▪ Monitoring and Enforcement. ▪ Possibility of interrupting fish markets especially during the initial days of implementation. 	<p>Sustainable Fisheries Management and Conservation of Marine Ecosystems.</p> <p>Increased Fish Landing and Increased value of fish landed.</p> <p>Economic Stability Increased Market Access and Trade for marine fisheries products.</p> <p>Food Security and Nutrition.</p> <p>Climate Resilience, effective fisheries management can enhance the resilience of marine ecosystems and</p>

		coastal communities to climate change impacts.
The Fisheries Management and Development (Aquaculture) Regulations, 2024.	<ul style="list-style-type: none"> ▪ Regulatory Compliance Costs, ▪ Infrastructure Development, ▪ Monitoring and Enforcement. 	<p>Increased Food Production.</p> <p>Economic Growth and employment by diversification of Income Sources.</p> <p>Rural Development and Poverty Alleviation through capacity Building and local Institutional Strengthening.</p> <p>Technology transfer and Innovation.</p> <p>Increase in Market Access and Trade.</p>
The Fisheries Management and Development (Fish Levy Trust Fund) Order, 2024.	<ul style="list-style-type: none"> • Administrative and monetary management costs in establishing and maintaining the Fund. • Compliance and Enforcement Costs, ensuring compliance with the regulations including collecting levy payments and enforcing regulations 	<p>Increased funding for Fisheries Management can provide a dedicated source of funding for fisheries management initiatives.</p> <p>Infrastructure Improvement: Funds from the trust can be used to improve fisheries infrastructure, such as ports, landing sites, and fish processing facilities.</p>

	related to the use of funds.	Conservation and restoration of the environment. The Fund can finance adaptation measures to address the impacts of climate change on fisheries.
The Fisheries Management and Development (Recreational Fisheries) Regulations, 2024.	<ul style="list-style-type: none"> • Compliance Costs, recreational fishers may incur costs associated with complying with regulations, such as purchasing fishing licences, and adhering to gear restrictions. • Administrative and Enforcement Costs by government agencies responsible for managing recreational fisheries. 	<p>Recreational fishing can contribute significantly to growth of local economies through tourism.</p> <p>Conservation of Ecosystems by preserving habitats and minimizing bycatch and habitat destruction, regulations can help maintain healthy aquatic ecosystems.</p> <p>Compliance and Enforcement with fishing regulations can deter illegal or unsustainable recreational fishing practices.</p>
The Fisheries Management and Development (General) Regulations, 2024.	<ul style="list-style-type: none"> • Administrative Costs • Enforcement Costs • Capacity Building Costs and Public 	<p>Economic Development through seafood processing, distribution, and tourism.</p> <p>Increased fish landing hence Food Security.</p>

	<p>Awareness and Outreach Costs</p> <ul style="list-style-type: none"> • Research and Monitoring Costs • Infrastructure Costs. 	<p>Improved Governance Compliance and Enforcement.</p> <p>Improved data for Research and Monitoring this data can inform adaptive management strategies and support evidence-based decision-making.</p> <p>Climate Change Adaptation, Fisheries are vulnerable to the impacts of climate change, and implementation of the regulations can include provisions for climate change adaptation measures.</p> <p>International Cooperation, effective fisheries management often requires cooperation among countries sharing common fish stocks or fishing grounds.</p>
<p>The Fisheries Management and Development (Inland Fisheries) Regulations, 2024</p>	<p>Enforcement, compliance, and administrative costs including hiring and training personnel.</p>	<p>Promote sustainable management practices for inland fisheries, ensuring</p>

	<p>Implementation of regulations may face opposition from certain stakeholders, such as commercial fishing companies or individuals reliant on traditional fishing practices that are now restricted.</p>	<p>that fish stocks are not depleted beyond their capacity to regenerate.</p> <p>By regulating fishing activities, particularly in sensitive habitats and during critical breeding seasons, the regulations can help conserve biodiversity in Kenya's inland waters.</p> <p>Consistent and sustainable supply of fish, contributing to food security and nutrition.</p> <p>Sustainable management of inland fisheries can help preserve these cultural aspects.</p>
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Annexure 1 provides a detailed analysis on the costs and benefits of the three options available in responding to the challenges in ensuring the implementation of these regulations.

			potential of 350,000 MT	
2	Impact on Private Sector	<ul style="list-style-type: none"> The private sector will largely remain unaffected 	<ul style="list-style-type: none"> There is no guarantee that administrative measures will address private sector concerns 	<ul style="list-style-type: none"> Increased household income due to MSMEs economies of scale
3	Economic Impact	<ul style="list-style-type: none"> Underdeveloped fisheries and aquaculture Sector. 	<ul style="list-style-type: none"> Uncertainty 	<ul style="list-style-type: none"> Increased contribution to the economy Spurring growth of infrastructure
4	Social Impact	<ul style="list-style-type: none"> Lost opportunity to increase fish consumption for health 	<ul style="list-style-type: none"> Uncertain 	<ul style="list-style-type: none"> Contribution to improved food security and nutrition
5	Human Rights Impact	<ul style="list-style-type: none"> Violation of human rights especially for women and marginalized communities 	<ul style="list-style-type: none"> Uncertain 	<ul style="list-style-type: none"> Gender equality and generally reduced inequality Equitable prosperity
6	Impact on business	<ul style="list-style-type: none"> Unreliable source of funding Stagnation of the businesses Low income 	<ul style="list-style-type: none"> Uncertain 	<ul style="list-style-type: none"> Reliable source of funding Re-investment of some portion of fisheries and aquaculture revenue Increased landed fish Spurring growth of fish related SMEs
7	Impact on environment	<ul style="list-style-type: none"> Continued underutilization of 	<ul style="list-style-type: none"> Opportunity to enhance conservation 	<ul style="list-style-type: none"> Increased utilization of

		environmental resources.	and management is lost	renewable resources <ul style="list-style-type: none"> • Opportunity to enhance conservation and management
8	Impact on taxes	<ul style="list-style-type: none"> • Continued loss of revenue 	<ul style="list-style-type: none"> • Sustained suboptimal revenue 	<ul style="list-style-type: none"> • Increased revenue collection • Expanding international exports
9	Impact on existing legal frameworks	<ul style="list-style-type: none"> • The existing legal gaps will not be addressed 	<ul style="list-style-type: none"> • Regulatory concerns will remain un-addressed 	<ul style="list-style-type: none"> • Addresses all the identified gaps • Provides harmony with related legal frameworks

Annexure 1 provides a detailed analysis on the costs and benefits of the three options available in responding to the challenges in ensuring the implementation of these regulations.

CHAPTER 10

IMPLEMENTATION OF THE REGULATIONS

10.1 COMPLIANCE AND IMPLEMENTATION

It is the duty of the regulation-making authority to assess the adequacy of the institutional framework, the legal framework and other incentives through which the Regulations will take effect and design responsive implementation strategies that make the best use of them.

The implementation and enforcement of the Regulations will be undertaken through the existing institutional framework at National level (Director General of the Kenya Fisheries Service in consultation with the Cabinet Secretary responsible for matters relating to Fisheries) and the County level (County Governments through the responsible County Executive Committee Member.

10.2 RECOMMENDATION

In view of the above conclusion, it is recommended that Fisheries Management and Development Regulations, 2024 be adopted:

10.3 CONCLUSION

Based on the analysis in this statement, the Fisheries Management and Development Regulations, 2024 are extremely necessary. These Regulations offer socio-economic, environmental and legal benefits which include ease of doing business, mitigation against climate change, reduction of conflicts, improved quality of livelihood for the fisherfolk, among others, which far outweigh the costs of these Regulations.

The Regulations also provide a framework for the ensuring that the people of Kenya enjoy the socio-economic rights enshrined in the Constitution.

ANNEXURES

ANNEXURE 1: COST BENEFIT AND IMPACT ANALYSIS

Option	Description	Costs	Benefits	Impacts and Distribution of Impacts	Summary of key concerns from Pre-consultations	Risks	Compliance and enforcement
Option One: Doing Nothing/Maintaining Status Quo	Maintaining the status quo means that no Regulations will be developed and therefore challenges facing the full implementation of the Fisheries Management and Development Act, 2019 will not be addressed.	Continue landing only 1,530 MT of fish from the EEZ Reduced value of fish landed Kshs 306 million Reduced revenue to the country Kshs 5,400,000.00 lost every year Reduced incomes to fishers Supply of fish to the domestic market Decreased economic benefits to the country Food and nutrition security	No additional funding required	Impact on marine fishing industry: Undeveloped marine fisheries Impact of revenue collection: Continued loss of revenue Impact on Environment: Continued lack of proper conservation and management measures Impact of food security: Opportunity to increase	Lack of adequate landing sites Harassment and constant arrests of fishers Lack of clarity of the required fishing gear Need for government support to provide equipment to traditional fishermen Food insecurity Lack of proper mechanisms	Overfishing Continued illegal and unregulated fishing practices Depletion of endangered species Transshipment without authority Continued lack of capacity for traditional fishermen Food insecurity Lack of proper mechanisms	Difficult to enforce the law without a mandatory landing requirement Inability to collect levies and taxes translates to lack of resources to build capacity for traditional fishermen

Option	Description	Costs	Benefits	Impacts and Distribution of Impacts	Summary of key concerns from Pre-consultations	Risks	Compliance and enforcement
		compromised Opportunity to create more jobs lost		fish consumption lost Impact of the economy : Opportunity to spur fish related SMEs lost		inability to regulate marine fishing	
Option Two: Application of Administrative Measures	Issuance of ministerial orders and circulars prescribing guidelines and administrative measures to address the identified challenges	No guarantee for full implementation of the Act Lack of capacity Continue landing only 1,530 MT of fish from the EEZ Reduced value of fish landed Kshs 306 million	Minimum costs as measures will be undertaken by existing offices Quick to implement	Impact on the economy : uncertain Impact on the environment: Opportunity to enhance conservation and management lost Impact on Fishers: Uncertain Impact on fish markets:	Grabbing of fish landing sites	Possibility of consumer abuse through monopolistic tendencies Inability to regulate the amount of fish caught	Constant arrests by the Fish Regulatory Institutions

Option	Description	Costs	Benefits	Impacts and Distribution of Impacts	Summary of key concerns from Pre-consultations	Risks	Compliance and enforcement
		<p>Reduced revenue to the country Kshs 5,400,000.00 lost every year</p> <p>Reduced incomes to fishers</p> <p>Supply of fish to the domestic market</p> <p>Decreased economic benefits to the country</p> <p>Food and nutrition security compromised</p> <p>Opportunity to create more jobs lost</p>		<p>Uncertain</p> <p>Impact on Private sector:</p> <p>Reduced business opportunities especially on professionals in the fishing sector</p>			
Option 3: Development and Implementation of the proposed Regulations	Granting access rights, licensing, and registration of vessels.	Employment of 190 more staff (Authorized Officers) Kshs 142,500,000.	Increased Fish Landing 150000-300000 MT Increased value of	Increased contribution to the economy Increased landed fish	Concerns on how levies will be used for the benefit of the fishers	Possibility of interrupting fish markets especially during the initial days	Completion of Liwatoni Fishing Hub Concerns about

Option	Description	Costs	Benefits	Impacts and Distribution of Impacts	Summary of key concerns from Pre-consultations	Risks	Compliance and enforcement
	Mandatory landing, fishing quotas	(recurring per annum)	fish landed Kshs 67.5 billion	Spurring growth of fish related SMEs	Empowering subsistence and Artisanal fishermen to become industrial fishers and create wealth	Enforcement challenges	the total allowable catch for small scale fishermen
	Capacity Building	Relevant infrastructures (offices/equipment for the staff)	Increased revenue to the country Kshs 5,400,000,000	Contributing to food security		Capacity building challenges	Ensure Fish Levy Trust Fund is used to build capacity of the fishermen
	Enforcement	Kshs 570,000,000	Increased incomes to fishers	Spurring growth of infrastructures	Pollution	Maintaining accurate data on marine fisheries	
		Establish system for recording of fish landing data and levy payment Kshs 375,000,000	Supply of fish to the domestic market	Expanding international fish exports		Ensuring sustainability	
		Development of fish landing ports	Increased economic benefits to the country				
		Annual Stock Assessments Kshs 80,000,000 (recurring per annum)	Food and Nutrition Security 10kg/person/year				
		Enforcement of the regulations conditions – (Offshore	Establishment of Fisheries based SMEs				
			Job opportunities 60,000 per annum				

Option	Description	Costs	Benefits	Impacts and Distribution of Impacts	Summary of key concerns from Pre-consultations	Risks	Compliance and enforcement
		patrols) Kshs 60,000,000 (recurring per annum)	Increased market access				
		Frame Surveys Kshs 52,000,000 (recurring per annum)	Development of artisanal fishing capacity				
		Catch Assessment Surveys Kshs 44,000,000 (recurring per annum)					
		Enforcement of licensing conditions Kshs 25,000,000 (recurring per annum)					
		Operation and maintenance of VMS and AIS systems Kshs 60,000,000 (recurring per annum)					
		Training of personnel on MCS					

Option	Description	Costs	Benefits	Impacts and Distribution of Impacts	Summary of key concerns from Pre-consultations	Risks	Compliance and enforcement
		Kshs 25,000,000 Capacity building of the BMUs Kshs 114,000,000 Operationalization of Inter-Agency MCS Unit Kshs 10,000,000 Establishment and maintenance of Vessel Database Kshs 30,000,000					

**ANNEXURE 2: REPORT ON PUBLIC PARTICIPATION ON THE FISHERIES
MANAGEMENT AND DEVELOPMENT REGULATIONS 2024**

