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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND
IRRIGATION

REPORT ON THE
THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL
ASSEMBLY BILL NO. 29 OF 2023)

 THE NATIONAL ASSEMBLY PAPERS LAID	
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TABLED BY:	HON. KAGWINGO BOWEN, MP CHAIRPERSON
CLERK-AT THE-TABLE:	V. WAMBUI

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TABLE OF CONTENTS

PART I	8
1.0 PREFACE	8
1.1 ESTABLISHMENT OF THE COMMITTEE	8
1.2 SUBJECT OF THE COMMITTEE	8
1.3 COMMITTEE MEMBERSHIP	9
1.4 COMMITTEE SECRETARIAT	10
PART II	11
2.0 OVERVIEW OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL	11
2.1 INTRODUCTION	11
2.2 RATIONALE	11
2.3 CONTENTS OF THE BILL	12
2.4 OVERVIEW OF THE FISHERIES SECTOR IN KENYA	14
PART III	21
3.0 CONSIDERATION OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)	21
3.1 COMMITMENT OF THE BILL	21
3.2 PUBLIC PARTICIPATION ON THE BILL	21
3.3 SUBMISSIONS FROM GOVERNMENT AGENCIES	22
3.3.1 SUBMISSIONS FROM THE STATE DEPARTMENT OF BLUE ECONOMY AND FISHERIES	22
3.3.2 SUBMISSIONS FROM THE COUNCIL OF GOVERNORS	50
3.4. SUBMISSION OF MEMORANDA FROM THE PUBLIC HEARINGS	83
3.4.1 Mombasa County	83
3.4.2 Kwale County	86
3.4.3 Kilifi County	94
3.4.4 Lamu County	97
3.4.5 Kisumu County	105
3.4.6 Siaya County	107
3.4.7 Homa Bay County	108
3.4.8 Migori County	110
3.4.9 Baringo County	113
3.4.10 Turkana County	115
PART IV	134
4.0 COMMITTEE OBSERVATIONS AND FINDINGS	134
PART V	137
5.0 COMMITTEE RECOMMENDATION	137
PART VI	138
6.0 SCHEDULE OF AMENDMENTS	138

LIST OF ABBREVIATIONS AND ACRONYMS

ABDP	-	Aquaculture Business Development Programme
ADZs	-	Aquaculture Development Zones
BMUs	-	Beach Management Units
CANCO	-	Community Action for Nature Conservation
CITES	-	Convention on International Trade in Endangered Species
COG	-	Council of Governors
DG	-	Director General
EAC	-	East Africa Community
EEZ	-	Exclusive Economic Zone
FAO	-	Food and Agriculture Organization
FMA	-	Fish Marketing Authority
FLTF	-	Fish Levy Trust Fund
FMDB	-	Fisheries Management and Development Bill
FMDA	-	Fisheries Management and Development Act
FRDF	-	Fisheries Research and Development Fund
IUU	-	Illegal Unreported and Unregulated
KEBS	-	Kenya Bureau of Standards
KeFDA	-	Kenya Fish Development Authority
KFMA	-	Kenya Fish Marketing Authority
KeFS	-	Kenya Fisheries Service
KMFRI	-	Kenya Marine & Fisheries Research Institute
KEMFSED	-	Kenya Marine Fisheries & Socio-Economic Development
KFIC	-	Kenya Fish Industry Cooperation
LANABLA	-	Lake Naivasha Basin Landscape Association
LVAA	-	Lake Victoria Aquaculture Association
LVFO	-	Lake Victoria Fisheries Organization

M&E	-	Monitoring and Evaluation
MCS	-	Monitoring Control and Surveillance
MDAs	-	Ministries, Departments and Agencies
PPP	-	Public-Private Partnerships
PSMA	-	Ports State Measures Agreement
PWDs	-	People with Disabilities
R&D	-	Research and Development
SDGs	-	Sustainable Development Goals
SMEs	-	Small and Medium-sized Enterprises
STCW-F	-	Standards of Training, Certification and Watch-keeping for Fishing
ToC	-	Table of Content
TVET	-	Technical and Vocational Education and Training

LIST OF ANNEXURES

- i. Adoption List
- ii. Minutes
- iii. Legal Brief
- iv. Submissions by the State Department for Blue Economy and Fisheries
- v. Submissions by the Council of Governors
- vi. Submissions by Lake Naivasha Basin Landscape Association (LANABLA)
- vii. Submissions by Lake Victoria Aquaculture (LVA)
- viii. Submissions by Kenya Fish Marketing Authority (KFMA)
- ix. Submissions from Lamu County Fisherfolk and BMUs
- x. Submissions from Kilifi County (Shella, Kilifi BMU)
- xi. Submissions from Kwale County (Kwale Youth Assembly)
- xii. Submissions from the Indian Ocean Body (BMU) Network
- xiii. Submissions from Community action for Nature Conservation (CANCO)

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Blue Economy, Water and Irrigation on its consideration of the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023), which was published on 16th June, 2023. The Bill was read a First Time on 6th July 2023 and, pursuant to Standing Order 127(1), was thereafter committed to the Departmental Committee on Blue Economy, Water and Irrigation for consideration.

Following consensus of the Senate and the National Assembly House Leadership it was resolved and agreed that the Bill originates from the Senate. However, Senate did not consider the Bill and thus through consultations between the Chairpersons of the Departmental Committee on Blue Economy, Water and Irrigation and the House Business Committee at the beginning of the Fourth Session, February 2025, it was resolved that the Departmental Committee on Blue Economy, Water and Irrigation processes the Bill.

The Bill comprises two hundred and eleven (211) clauses and seeks to provide a comprehensive legislative framework for the development, governance and investments of the oceans and fisheries resources, in line with the national development policy objectives envisaged in the Vision 2030. It is aligned to international and regional instruments governing global fisheries and the relevant national laws. The Bill further seeks to align the governance of the fisheries sector to the Constitution of Kenya, 2010 which call for sustainable use of our natural resources for the benefit of the people of Kenya and governance at the county and national levels.

In compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee invited public and stakeholder views on the Bill through advertisements placed in the print media on Friday, 21st February, 2025 running up to 7th March, 2025. The Committee received memoranda from the Council of Governors, State Department for Blue Economy and Fisheries, Lake Victoria Aquaculture (LVA), Lake Naivasha Basin Landscape Association (LANABLA).

The Committee held consultative meetings with the State Department for Blue Economy and Fisheries on 25th March 2025, 3rd April 2025 and 20th February, 2026. The Committee further met with the Council of Governors on 31st July, 2025 and on 20th February, 2026 to consider their submissions.

Stakeholder engagement meetings were held across the country in Counties with fisheries resources, including the Nyanza Region (Kisumu, Siaya, Homabay and Migori Counties) and the Coastal Region (Mombasa, Kwale, Kilifi and Lamu Counties). The Committee further undertook rounds of public participation in Turkana, Nakuru (Naivasha) and Baringo Counties in November, 2025.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support extended during its sittings. Appreciation is also extended to the Honourable Members of the Committee and the Committee Secretariat for their valuable contributions to the consideration of the Bill and the preparation of this Report.

On behalf of the Departmental Committee on Blue Economy, Water and Irrigation, and pursuant to Standing Order 199(6), it is my honour and privilege to present to the House the Report of

the Committee on its consideration of the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023).

The Committee has considered the Bill and recommends that the National Assembly adopts the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) with amendments.

Hon. Bowen Kangogo, CBS, MP

Chairperson,

Departmental Committee on Blue Economy, Water and Irrigation

PART I

1.0 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Blue Economy, Water and Irrigation is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. *To study and review all legislation referred to it;*
 - v. *To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 SUBJECT OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters of: use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries, the sustainable use of ocean resources for economic growth and improved livelihoods, except seaports and marine transport.
3. In executing its mandate, the Committee oversees the following government ministries and departments and agencies (MDAs), namely:
 - i. The State Department for Water and Sanitation
 - ii. The State Department for Irrigation
 - iii. The State Department for Blue Economy and Fisheries

1.3 COMMITTEE MEMBERSHIP

4. The Committee was constituted by the House on 27th October, 2022 and comprises of the following Members:

Chairperson

Hon. Bowen Kangogo, CBS, MP
Marakwet East Constituency
United Democratic Alliance Party

Vice- Chairperson

Hon. Kemero Maisori Marwa, CBS, MP
Kuria East Constituency
United Democratic Alliance Party

Hon. Tandaza Kassim Sawa, MP, CBS
Matuga Constituency
Amani National Congress

Hon. Buyu Rozaah Akinyi, MP
Kisumu West Constituency
Orange Democratic Party

Hon. William Kamket, MP
Tiaty Constituency
KANU

Hon. Stanley Muiruri Muthama, MP
Lamu West Constituency
Jubilee Party

Hon. Eng. Paul Nzengu, MP
Mwingi North Constituency
Wiper Democratic Party

Hon. Eng. Nebart Bernard Muriuki, MP
Mbeere South Constituency
Independent Member

Hon. (Dr.) Osogo Bensuda Joyce Atieno, MP
Homa Bay Town Constituency
Orange Democratic Party

Hon. George Gachagua, MP
Ndaragwa Constituency
United Democratic Alliance Party

Hon. Mohamed Abdikadir Hussein, MP
Lagdera Constituency
Orange Democratic Movement

Hon. Mnyazi Amina Laura, MP
Malindi Constituency
Orange Democratic Movement

Hon. Eric Wamumbi, MP
Mathira Constituency
United Democratic Alliance Party

Hon. Dorothy Muthoni Ikiara, MP
Nominated
United Democratic Alliance Party

Hon. Adow Mohamed Aden, MP
Wajir South Constituency
Orange Democratic Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Mr. Mohamed Boru
Clerk Assistant I/Head of Secretariat

Ms. Ivy Kageha
Clerk Assistant III

Dr. Benjamin Ngimor
Principal Fiscal Analyst

Ms. Lynette A. Otieno
Principal Legal Counsel

Ms. Veron D. Aluoch
Research Officer III

Ms. Joyce Wachera
Hansard Officer II

Ms. Maryan Ahmed Gabow
Public Communications Officer

Ms. Fridah Ngari
Media Relations Officer III

Mr. Eugene Luteshi
Audio Assisting Officer

Mr. Mohamed Said
Sergeant-At-Arms

PART II

2.0 OVERVIEW OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

2.1 Introduction

1. The Fisheries Management and Development Bill 2023 aims to establish a comprehensive framework for managing and developing the fisheries sector in a sustainable manner. It seeks to align fisheries management practices for the benefit of Kenyans, ensuring resource utilization and governance at both national and county levels.
2. The bill also addresses various aspects of fisheries, including import, export, trade, and quality, while also providing for fish safety and quality standards. In summary, the Bill seeks to provide for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing.

2.2 Rationale

3. On 29th November, 2021 *Malindi High Court Constitutional Petition No. 13B of 2021, Mahmoud Shalima Mohammed Versus Ministry of Agriculture, Livestock and Fisheries & Others* was filed at the High Court of Kenya.
4. The Petitioner sought to challenge the provisions of Section 42(1)(a), (b), (e), (i), (j), and (m) (herein referred to as the impugned provisions) of the Fisheries Management and Development Act, 2016 which provides limitations on the fishing gear that can be used by persons in the conduct of fishing activity. Section 42 provides for the prohibition of certain fishing gears and methods.
5. The Petitioner was aggrieved that the impugned provisions infringed on the Petitioner's economic and social rights as espoused in Article 43 of the Constitution. Further, the Petitioner contended that the impugned provisions were enacted unconstitutionally, citing lack of public participation in the enactment process.
6. The Petitioner contended that the National Assembly proceeded to pass the impugned provisions without any legislative impact assessment statement from the sponsoring authority or following the strict framework for public participation provided by the Statutory Instruments Act, thus violating the overriding objectives of the framework, that is, to provide a comprehensive regime for the making, scrutiny, publication, and operation of pending Bills.
7. In its Judgment in the matter on 15th November, 2022 the High Court made the following declarations:
 - a. A declaration is hereby issued that section 42(1)(a), (b), (e), (i), (j), (m) of the Fisheries Management Development Act, 2016 are inconsistent with the Constitution and therefore null and void.
 - b. A declaration is hereby issued that the entire Fisheries Management Development Act, 2016 is invalid for want of Public Participation.

8. The National Assembly subsequently filed an appeal and an application seeking a stay of the Judgment of the High Court pending the hearing and determination of the Appeal. Upon hearing all parties, the following orders were made by the Court that;
 - a. *The entire Fisheries Management and Development Act, 2016 continues to be in operation save for Section 42(1)(a) to (k) and (m) and Section 42(2) thereof which remain suspended pending the hearing and determination of the substantive appeal.*
 - b. *There shall be no orders as to costs.*
9. The orders granted by the court enable the continued operation of various authorities and agencies established through the Act pending the hearing and determination of the Appeal.
10. Consequently, The Fisheries Management and Development Bill (National Assembly Bills No. 29 of 2023) was published on 16th June, 2023 and read a first time on the Floor of the House on 6th July, 2023
11. However, following consensus of the two House's Leadership it was resolved and agreed that the Bill originates from the Senate. However, Senate did not consider the Bill.
12. Through consultations between the Chairpersons of the Departmental Committee on Blue Economy, Water and Irrigation and the House Business Committee at the beginning of the Fourth Session, February 2025, it was resolved that the Departmental Committee on Blue Economy, Water and Irrigation processes the Bill.

2.3 Contents of the Bill

13. The Fisheries Management and Development Bill, 2023 is divided into twenty (20) parts composed of 210 clauses, one Schedule, and contains the following provisions—
14. Part I contains provisions relating to preliminary provisions including the short title, interpretation, object of the Act and guiding principles, application and jurisdiction and sovereign rights of Kenya.
15. Part II contains the provision relating to the establishment of the Kenya Fisheries Council. The role of the Council is to review and advise the national Government on policies in relation to the co-ordination of fisheries management in relation to the aquatic environment and human dimensions.
16. Part III contains provisions relating the Kenya Fisheries Service and matters incidental, including the appointment of the Director-General, the functions of the Director-General, staff of the Service, establishment of Monitoring, Control and Surveillance Unit, Inter-agency monitoring, control and surveillance unit and funds of the Service. The Service shall be responsible for the conservation, management and development of Kenya's fisheries resources.
17. Part IV provides financial and administrative provisions, including the Financial Year, annual estimates, accounts and audit to be in accordance with the Public Audit Act. This part also provides for the Fisheries Research and Development Fund, whose object is to provide supplementary funding for research intended to further the development of fisheries

management, capacity building, scholarships, grants and support for the observer programme established and;

18. Part IV also provides for the Fish Levy Trust Fund whose object is to provide supplementary funding of activities geared towards management, development and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.
19. Part V provides for fisheries conservation, management and development. This part provides that all fisheries resources vested in the State and shall be conserved, managed and developed consistently with the Act, including its objective and principles, and acknowledging their role as the heritage of the people of Kenya.
20. Clause 30 provides for fisheries measures where the Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act,
21. This part also provides for implementation of international conservation and management measures relating to fisheries, development of fisheries management plans by counties and submission of the same to the Director-General for endorsement.
22. Part V further provides for how the National and County governments shall relate with regards to fisheries conservation and management. It also provides for the establishment of Beach Management Units. The Responsibility for planning fisheries management, constitution of fisheries management plans and management measures.
23. This part also outlines in clauses 41 and 42 the limitation on fishing and fishing related activities, fish landing stations and prohibited activities relating to fish or fish products taken contrary to the laws of another State.
24. Part VI provides for import, export and trade and marketing of fish. Part VII provides for fish quality and safety, including harmonization of fish quality standards and safety and prohibition of sale of contaminated fish quality and safety.
25. Part VIII provides for aquaculture activities. This part provides for promotion of the aquaculture activities and development of an aquaculture plan.
26. Part IX provides for information and data records. The Director-General may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as the Director may specify any information and data, including information relating to fishing, fisheries, aquaculture, landing, research, storage, food safety, processing, buying, selling, exports and other related transactions
27. Part X provides for licensing and registration. The Director-General shall establish and maintain a national register of licenses and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary that shall contain among other information, on each licensed or authorized person and information on the relevant vessel, facility, and/or licensed or authorized activity.
28. Part XI provides for compliance with licenses, authorizations and requirements for fishing vessels.

29. Part XII provides for requirements for foreign fishing vessels or vessels fishing under charter arrangements. This part provides that the Cabinet Secretary may require either as a precondition of issuing a license to any fishing vessel other than a Kenya fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in accordance with such procedures and in such form as may be prescribed.
30. Part XIII provides for monitoring, control and surveillance. The Director-General may establish and operate vessel monitoring systems for purposes of monitoring, control and surveillance, and managing the operations of fishing vessels.
31. Part XIV provides for the regulation of arrested persons and seized items including fishing vessels whereas part XV provides for the regulation of evidence collected in the regulation of fisheries.
32. Part XVI provides for summary and administrative proceedings. A person arrested under the Act shall promptly be brought before the Court of applicable jurisdiction or be subject to administrative proceedings in accordance with the Act and In cases of arrest or detention of foreign fishing vessels for a contravention of this Act, the Director-General shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.
33. Part XVII provides for the jurisdiction of the Court, prosecution, forfeiture, liabilities and other actions under the Act. Where a court convicts a person of an offence against the Act, the Court may order the forfeiture of any of the following any fish, fish product and fishing related gear that was involved in the commission of the offence or where a fishing vessel, vehicle or aircraft was used in the commission of an offence, any fish on board such vessel, vehicle or aircraft at the time of the offence.
34. Part XVIII provides for the establishment of the Kenya Fish Marketing Authority and its functions.
35. Part XIX provides for miscellaneous provisions while part XX provides for repeal and transitions.

2.4 Overview of the Fisheries Sector in Kenya

Historical Background on Fisheries in Kenya

36. Fishing has been a traditional activity in Kenya for centuries, with indigenous communities along the coast relying on fish as a major food source. These communities, developed their own fishing techniques and practices, including the use of canoes, nets, and traps. During the colonial period under British rule, the fisheries sector underwent major transformation with the introduction of modern fishing technologies such as motorized boats, synthetic nets, and improved gear.¹
37. After gaining independence in 1963, Kenya prioritized the development of the fisheries sector to promote economic growth and improve food security. The government recognized

¹ Fisheries and Aquaculture Country Profile, Kenya: <https://www.fao.org/fishery/en/facp/ken>

the potential of marine resources and established policies and institutions to regulate and manage the sector effectively. The Department of Fisheries was established to oversee fisheries management and development activities.

38. Kenya is not only endowed with marine resources but also has several lakes, rivers, and wetlands that support freshwater fisheries. The government initiated various programs to develop and manage inland fisheries, including the stocking of lakes with fish species and the construction of fish ponds for aquaculture. This focus on inland fisheries aimed to diversify fish production and reduce pressure on marine resources.²

Fisheries Resources in Kenya

39. Kenya is endowed with both marine and inland water resources making fishing an important economic activity in the country. The inland water resources include lakes, dams and rivers of varying sizes. Additionally, across the country, there are also dams stocked with fish in areas like Uasin Gishu, Narok and Laikipia, where fish production is quite substantial.
40. The country also enjoys a 640 km coastline along the Indian Ocean, which includes 12 nautical miles of territorial waters and an Exclusive Economic Zone (EEZ) extending 200 nautical miles, covering approximately 142,400 km.³
41. While both inland and marine waters are exploited, inland capture fisheries dominate Kenya's production. Lake Victoria alone contributes about 92% of inland fish landings, while marine capture contributes 4% and aquaculture 1% of total national production.
42. The Kenyan fishery is mainly artisanal with very few commercial/industrial vessels targeting mainly shallow water shrimps, deep water shrimps and lobsters. The artisanal fishery accounts for most of the inland and marine water catches reported and consequently it is currently the most important fishery in the country, even though our Economic Exclusive Zone (EEZ) which is predominately for commercial fishing is under exploited with an estimated potential of between 150,000 to 300,000 metric tons.⁴
43. The fisheries sector plays a significant socio-economic role nationwide. In 2021, it supported 65,000 fishers, 70,000 fish farmers, and maintained 149,000 stocked ponds, according to KeFS. Overall, the sector supports about 1.2 million people directly and indirectly across fishing, trading, processing, and supply value chains (State Department for Fisheries). Total fish production in 2021 increased to 163,702 MT valued at Kshs. 30.38 billion, representing an 8.2% rise from 2020 due to improved landings and stronger market prices.⁵
44. Inland capture fisheries accounted for 71% of national production, with Lake Victoria recording 94,349 MT, a 7% increase linked to the easing of COVID-19 restrictions. Lake Turkana produced 15,644 MT, a 19% increase attributed to rising water levels and improved fish habitats.

² <https://www.worldbank.org/en/country/kenya/brief/kenya-fisheries>

³ Fisheries and Aquaculture Country Profiles, Kenya: <https://www.fao.org/fishery/en/facp/ken>

⁴ Kenya Aquatic Journal: <https://www.kmfri.go.ke/>

⁵ Fisheries Annual Statistical Bulletin 2021: <https://kefs.go.ke/sites/default/files/2023-07/2021%20Bulletin.pdf>

Challenges in the Fisheries Sector

45. Despite the historical development and efforts to promote sustainable fisheries, Kenya faces several challenges in the sector:
46. The increasing demand for fish, coupled with unsustainable fishing practices such as the use of fine-meshed nets and dynamite fishing, has resulted in the depletion of fish stocks. Overfishing not only threatens the livelihoods of fishermen but also disrupts the marine ecosystem.
47. Illegal, Unreported, and Unregulated (IUU) fishing is a persistent issue in Kenya's fishing industry. It involves fishing activities that violate national and international laws, including fishing without proper licenses, using banned gear, or fishing in restricted areas. IUU fishing undermines efforts to conserve fish stocks, hampers sustainable fisheries management, and affects the income of legal fishermen.
48. Many fishing communities in Kenya lack adequate infrastructure and equipment to support their fishing activities. Inadequate storage facilities, poor transport networks, and limited access to ice or cold storage facilities contribute to post-harvest losses. Insufficient and outdated fishing gear also affect the productivity and efficiency of fishermen.
49. Climate change and environmental degradation have a significant impact on Kenya's fishing industry. Rising sea temperatures, unpredictable weather patterns, and ocean acidification affect fish habitats and migration patterns. Coastal erosion, pollution from agricultural runoff and industrial activities, and degradation of mangrove forests further disrupt the marine ecosystem and threaten fish populations.
50. Many small-scale fishermen in Kenya struggle to access affordable credit or financial services to invest in their fishing activities thus hindering their ability to purchase modern fishing equipment, maintain their boats, and improve infrastructure. Additionally, inadequate market linkages and limited value-addition opportunities result in low returns for fishermen, limiting their income potential.
51. Further, the fishing industry in Kenya faces challenges related to weak regulatory and enforcement mechanisms. Inconsistent enforcement of fishing regulations, limited surveillance and monitoring capabilities, and corruption allow illegal fishing practices to persist. Strengthening governance frameworks and improving enforcement mechanisms are crucial to addressing these issues.

2.5 Existing Legal And Policy Framework

The Constitution of Kenya

52. The Constitution provides the overarching principles for environmental and natural resource governance, including fisheries. Article 69(1) obligates the State to ensure the sustainable exploitation, utilization, management and conservation of the environment and

natural resources, protect biodiversity, and undertake environmental impact assessments for development activities.⁶

53. The Fourth Schedule further allocates fisheries-related functions between the two levels of government. Part 1, assigns the National Government responsibility for fisheries policy, while Part 2 assigns County Governments the role of implementing national natural resource policies, including inland fisheries and aquaculture development.

The Fisheries Management and Development Act (FMDA), 2016

54. This is the principal law regulating fisheries in Kenya. The Act outlines governance principles in Section 3, including sustainability, equity and ecosystem integrity. Further, it establishes key institutions, including the Kenya Fisheries Service (KeFS) under Sections 11–18, responsible for implementing fisheries governance, compliance, capacity development and sector coordination.⁷

The Fisheries Management and Development Regulations, 2021

55. These regulations provide detailed provisions and guidelines for the implementation of the Fisheries Act. They cover areas such as fishing permits and licenses, registration of fishing vessels, protected areas, fishing gear specifications, and penalties for offenses.

Fisheries Management and Development Plans (FMDPs)

56. These are statutory plans prepared under Section 9 of the FMDA (2016). They articulate the government's strategic objectives for sustainable fisheries development. These plans guide resource management, aquaculture expansion, research and innovation, surveillance, value-chain development and institutional strengthening.

Blue Economy Strategy and Initiatives

57. Kenya's Blue Economy frameworks promote sustainable use of aquatic resources for economic growth, improved livelihoods, and ecological health. The strategy emphasizes on sustainable fisheries, marine conservation, value addition and fish processing and maritime safety and surveillance.

Institutional Framework

58. The Bill creates several institutions to coordinate Fisheries as follows-
59. The Kenya Fisheries Advisory Council whose function shall be to review and advise the national Government matters related to fisheries.
60. The Kenya Fisheries Service which shall be responsible for the conservation, management and development of Kenya's fisheries resources in accordance with this act.
61. Monitoring Control and Surveillance unit (MCS) whose functions shall be monitoring control and surveillance including enforcement and compliance with this act as well as

⁶ Constitution of Kenya: <https://www.kenyalaw.org/lex/>

⁷ FMDA, 2016.pdf :<http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/>

cooperating and coordinating with performing relevant functions within the broader systems of monitoring, control and surveillance.

62. Fish Marketing Authority whose object and purpose shall be to market fish and fisheries products from Kenya.

Comparative Analysis of Fisheries Sector in China, Namibia and Kenya

Key Indicator	China	Namibia	Kenya
Primary Fisheries Law	Fisheries Law of the People's Republic of China – governs conservation, licensing, aquaculture, marine protection, fishing zones, and closed seasons. ⁸	Marine Resources Act, 2000 (Act No. 27 of 2000) – establishes management, conservation, utilization, quotas, licensing, and enforcement.	Fisheries Management and Development Act (FMDA), 2016 – establishes Kenya Fisheries Service (KeFS), licensing systems, BMUs, aquaculture regulation, enforcement, and monitoring.
Aquaculture Legal Framework	Regulated under 63. the Fisheries Law and regional aquaculture regulations addressing seed quality, water standards, feed rules, and disease control.	Governed under Namibia's Aquaculture Policy, which guides sustainable aquaculture practices and the development of inland and coastal aquaculture. ⁹	Provided for under Part VI of the FMDA 2016, covering aquaculture licensing, environmental safeguards, and compliance requirements.
Marine Environmental Protection	Regulates pollution control, marine protected areas, ecological	Environmental provisions integrated into the Marine Resources	Environmental management, conservation measures, and the

⁸ Fisheries and Aquaculture Country Profile China <https://www.fao.org/fishery/en/facp/chn>

⁹ National Planning Commission, Namibia: <https://www.npc.gov.na/>

Key Indicator	China	Namibia	Kenya
	restoration, and environmental monitoring.	Act, 2000 and supported by national environmental regulations.	establishment of Marine Protected Areas (MPAs) under the FMDA 2016.
Institutional Management Structure	Ministry of Agriculture & Rural Affairs and the State Oceanic Administration oversee fisheries management and enforcement.	Ministry of Fisheries & Marine Resources (MFMR) serves as the central regulatory and enforcement authority.	Kenya Fisheries Service (KeFS), Kenya Marine & Fisheries Research Institute (KMFRI), and the State Department for Fisheries lead fisheries administration and research.
Fisheries Licensing & Rights	Licensing, permits, vessel registration, and allocation of fishing zones established under the Fisheries Law.	Quota-based fishing rights, Total Allowable Catches (TACs), vessel licensing, and gear regulations established under the Marine Resources Act, 2000. ¹⁰	Licensing frameworks, vessel registration, and co-management through BMUs established under the FMDA 2016.
Monitoring, Control & Surveillance (MCS)	Strict MCS including VMS, closed seasons, gear restrictions, and state-led inspections under the Fisheries Law.	Strong MCS with VMS, observer programs, quota monitoring, and enforcement under the Marine Resources Act, 2000.	MCS systems under the FMDA 2016, including surveillance, BMU participation, licensing enforcement, and inspections.

¹⁰ <https://www.lac.org.na/laws/annoSTAT/MARINE%20RESOURCES%20ACT.pdf>

Key Indicator	China	Namibia	Kenya
Community Participation	Minimal formal co-management structures; fisheries governance is highly centralized and state-led.	Community roles recognized mainly in inland fisheries through localized management practices.	BMUs (Beach Management Units) legally recognized under the FMDA 2016 as co-managers of fisheries resources.
Enforcement Provisions	Heavy penalties for illegal, unreported, and unregulated (IUU) fishing, environmental violations, and non-compliance with closed seasons or gear rules.	Enforcement through penalties for quota misuse, illegal fishing, and non-compliance with vessel and gear regulations.	Enforcement executed through fisheries inspectors, BMUs, and surveillance officers under the FMDA 2016.
Development Priorities	Large-scale aquaculture expansion, modernization of fishing fleets, digital monitoring, and ocean governance reform.	Sustainable exploitation of marine stocks, promotion of high-value species, aquaculture expansion, and ecosystem protection.	Strengthening Blue Economy initiatives, aquaculture development, modernization of fish landing sites, and enhanced co-management approaches.

PART III

3.0 CONSIDERATION OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

3.1 Committal of the Bill

64. The Fisheries Management and Development Bill, 2023 was published on 16th June, 2023 and read a First Time on 6th July 2023. However, following consensus of the two House's Leadership it was resolved and agreed that the Bill originates from the Senate. However, Senate did not consider the Bill.
65. Through consultations between the Chairpersons of the Departmental Committee on Blue Economy, Water and Irrigation and the House Business Committee at the beginning of the Fourth Session, February 2025, it was resolved that the Departmental Committee on Blue Economy, Water and Irrigation processes the Bill.

3.2 Public Participation on the Bill

66. Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts for request for submission were placed in the "Daily Nation" and the "Standard" newspapers on 21st February, 2025 inviting members of the public to submit memoranda on the Bill.
67. Further, in considering the Bill, the Committee held a total of eleven (11) sittings to receive and consider submissions from stakeholders including the State Department for Blue Economy & Fisheries and the Council of Governors. The Committee held three consultative meetings with the State Department for Blue Economy and Fisheries on 25th March 2025, 3rd April 2025 and 19th February, 2026. The Committee further met with the Council of Governors on 31st July, 2025 and 20th February, 2026 to consider their submissions on the Bill.
68. To ensure sufficient public participation, the Committee conducted public hearings in various Counties to receive submissions from stakeholders on the Bill. Hearings were conducted across the country with a focus on regions with large water bodies where fisheries activities are concentrated. These hearings were conducted in Kwale, Mombasa, Kilifi and Lamu Counties along the Indian Ocean coastline. In the Lake Victoria region, public hearings were conducted in Kisumu, Siaya, Homa Bay and Migori Counties. Hearings were also conducted in Nakuru, Baringo and Turkana Counties which host Lake Naivasha, Lake Nakuru, Lake Baringo and Lake Turkana respectively.
69. The Committee also received written submissions from the Kenya Fish Development Authority (KeFDA), Lake Victoria Aquaculture (LVAA) and Lake Naivasha Basin Landscape Association (LANABLA).

3.3 Submissions from Government Agencies

3.3.1 Submissions from the State Department of Blue Economy and Fisheries

Ms. Betsy Njagi, CBS, the Principal Secretary, State Department for Blue Economy and Fisheries, appeared before the Committee and briefed on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) as follows:

70. Choose whether to use “he”, “himself”, and “his” or “he or she”, “himself or herself”, and “his or her” and harmonize throughout the entire Bill.

Justification: For consistency throughout the Bill.

Committee Observation

The amendment was adopted and the Bill will be aligned in accordance with inhouse drafting style and format

Clause 2

71. Amend the definition of “subsistence fishing” as follows: - “Subsistence fishing” means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their families and community; Further, delete one of the repeated definitions of Subsistence farming in the Bill.

Justification: Refine the definition to properly distinguish between fishing as a commercial enterprise and fishing for one’s own consumption.

Committee Observation

The amendment was adopted as it provides for distinction between subsistence fishing for proper regulation of industrial or commercial fishing.

72. Insert a definition of “Marine Park” as follows: “Marine Park” means any park or reserve covering the area of intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazette boundary. (Wildlife Conservation and Management Act, Cap 376).

- a. The following definitions are to be added and clause 135 (6) deleted: “Monitoring” means the collection, measurement and analysis of fishing activity including, but not limited to catch, species composition, fishing effort, bycatch, discards, area of operations; “Control” means the specification of the terms and conditions under which resources can be harvested; “Surveillance” means the checking and supervision of fishing activity to ensure that national legislation and terms, conditions of access and management measures are observed.

Justification: For alignment with international standards and best practices. This is expanded to cater for operational efficiency and include authorization beyond Kenya’s jurisdiction during MCS operations.

Committee Observation:

The amendment seeks to align the definition of “Marine park” as provided in the Wildlife Conservation and Management Act which is the parent Act that regulates and establishes different category of parks.

73. Replace the definition of “transshipment” with the following: “transshipment” means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed.

Justification: To align with international best practices and give more clarity.

Committee Observation:

The amendment was adopted as it aligns with international best practices on definition of transshipment.

74. Include a definition of “commercial fishing” as below: “commercial fishing” means fishing for sale, barter, or trade.

Justification: The term “commercial fishing” has been used in the Bill but no definition has been provided in the definition section.

Committee Observation:

The amendment was adopted to provide for clarity on what amounts to commercial fishing.

75. Substitute the definition of “Foreign fishing vessel” with the following: “Foreign fishing vessel” means a fishing vessel not registered in Kenya.

Justification: To give more clarity.

Committee Observation:

The amendment was adopted as it aligns the definition with what is provided in the Merchant Shipping Act that defines foreign vessels.

76. Amend the definition to: “Board” means the board of directors of the Service established by section 10;

Justification: To align with other defined terms in the Bill.

Committee Observation:

The Bill already provides for the definition of the Board, hence the proposal is unnecessary.

77. Delete the definition of “Board of Directors”

Justification: To align with the Cabinet directive to dissolve the Fish Marketing Authority

Committee Observation:

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the

Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

78. Substitute the definition of "Territorial waters" with the following: "territorial waters" shall have the meaning assigned to it under the Maritime Zones Act, Cap. 371. Change all references of "territorial sea" in the Act to "territorial waters".

Justification: The Bill defines Territorial Waters but Territorial Sea is then used throughout the Act but not "territorial waters"

Committee Observation:

The amendment aligns with the definition of territorial waters as defined Maritime Zones Act, Cap. 371 and was adopted.

79. "Exclusive Economic Zone" shall have the same meaning as assigned to it under the Maritime Zones Act Cap. 371.

Justification: Add as part of the definitions as the term is used throughout the Bill but not defined (for example in clauses 127 (5), 162 (3) and 208 (2) (1))

Committee Observation:

The amendment was adopted as it makes provision for definition that was erroneously omitted.

80. Delete the definition of 'Authority' to align with the Cabinet directive to dissolve the Fish Marketing Authority

Committee Observation:

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

81. Insert the following definitions "Inspector" is any person appointed under clause 147 (1) (a) of the Bill; "Observer" is any person appointed under clause 147 (1) (b) of the Bill; "Authorization" means any authorization issued under clause 83(5); Insert definition of Fishing License.; "Fishing License" is any license granted under clause 83 of the Bill.

Justification: For Clarity.

Committee Observation:

The amendment is superfluous and unnecessary.

Clause 4

82. Clause 4 appears twice in the proposed bill, causing a disruption in the numbering sequence.

Justification: Revise the numbering to reflect the true position.

Committee Observation:

The amendment was adopted to correct numerical errors in the Bill.

Clause 5

83. Delete the entire part creating the Fisheries Advisory Council.

Justification: This Council is no longer needed as there is now a State Department dedicated to Blue Economy which was not the case when the FMDA 2016 was passed.

Committee Observation:

The amendment is adopted in line with government directive on reduction of state corporations and transfer of role to the relevant State Department.

Clause 8

84. Delete the functions under Clause 8(b), (k), (r) (s) and (t) from the Act as functions of the Service and Kenya Fish Marketing Authority and move them to the new clause on the functions of the Ministry.

Amend following sub-clauses of clause 8 as follows: (p) Replace the word “facilitate” with “promote”.

Justification: These are the functions of the Ministry responsible for blue economy and fisheries.

Committee Observation:

The amendment was adopted however the functions of the Kenya Fish Marketing Authority have been assigned to the Kenya Fisheries Service.

Clause 12

85. Rename to ‘Vacation of office’ for consistency.

Committee Observation:

The proposal is adopted as a general cleanup of the Bill.

Clause 14

86. Amend clause 14 (2) as follows: - (2) A person shall be qualified to be appointed under sub-clause (1) if such person holds a postgraduate degree from a recognized university in either-
- (a) natural resource or environmental management, or science.
 - (b) fisheries studies, including fisheries governance, management. development or science
 - (c) aquatic science; or
 - (d) any other related field, and has at least ten years' experience in a senior management position in a public or private institution.

Justification: To make the provision less rigid to ensure that the best available candidate can be recruited for the position.

Committee Observation:

The amendment seeks to enable persons who have management experience in private institutions to be also qualified to be appointed as the Director-General and further seeks to require a person to be compliant with Chapter Six of the Constitution to be eligible for appointment.

Clause 15

87. Delete Clause 15 (2) (d).

Justification: Clause 15 (2) (d) refers to the Fish Marketing Authority which is to be dissolved under the directive from the Cabinet and the functions of the Fish Marketing Authority have been transferred to the State Department.

Committee Observation:

The amendment was adopted noting this is a consequential amendment based on deletion of the Fish Marketing Authority

Clause 17

88. Amend the clause by Substituting with the following: - The Cabinet Secretary may, on the recommendation of the Director- General, by notice in the Gazette appoint a person to be an authorized officer for purposes of this Act.

Justification: Correcting a typographical error in the clause. Changing 'in consultation with' to 'on the recommendation of'.

Committee Observation:

The amendment was adopted as this is a general clean and ensures appointment of authorized officers is on recommendation of the technical person who is the Director-General.

Clause 18

89. Delete the clause as positions of honorary fisheries officers are unnecessary.

Committee Observation:

The amendment was adopted as the position of honorary fisheries officers are unnecessary and no such officers have been appointed since enactment of the Act.

Clause 27

90. Delete the clause and other references to the Fish Levy Trust Fund in the Bill.

Justification: The provision creates the Fish Levy Trust Fund which is to be dissolved under the directive from the Cabinet and the functions transferred to the Cabinet Secretary's office.

Committee Observation:

The amendment was adopted with necessary modifications and restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability. Subsequently the Fisheries Research and Development Fund has been proposed to be deleted. The Fisheries Research and Development Fund is yet to be established since the enactment of the Fisheries Management and Development Act in 2016 hence the proposal to delete the provision and transfers its purpose to the Development Fund

Clause 29

91. Delete 29 (d) and 29 (j).

Justification: These functions have been transferred to the State Department.

Committee Observation:

The amendment was not adopted these functions of marketing have been transferred to the Kenya Fisheries Service.

Clause 33

92. Amend sub-clause 2 as follows: - (2) In developing the management measures and plans, referred to in sub-clause (1), the relevant authorities in the County shall

(a) take steps to ensure that such plans and measures are consistent with the provisions of this Act, including its objective and principles, and national fisheries management plans and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act, and

(b) take into consideration, to the extent possible, elements of a fisheries management plan described in Clause 38.

Justification: The proposal provides for harmony and synergy in developing fisheries management plans.

Committee Observation:

The amendment was adopted with modification. The proposals ensures the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

Clause 35

93. Amend as follows: (1) Where there is any conflict between the national and county management plans, the national management plan shall prevail.

Justification: Under Article 62 (3) the Constitution of Kenya, all rivers, lakes, other water bodies, the territorial sea, the exclusive economic zone and sea bed all constitute public land that vests and is held by the national government and as such where the plans conflict in respect to these resources the national government should prevail. Additionally, under Article 191 (3)(b) and 191 (3)(c)(vi) the national government should prevail in this instance.

Committee Observation:

The amendment was adopted as it aligns with the provisions of Article 191 of the Constitution on conflict of laws and when national laws ought to prevail especially for establishing uniform standards and national policies.

Clause 38

94. Amend as follows: -

38. (1) The Cabinet Secretary may, on the recommendation by the Director-General and in consultation with the Council of Governors declare a fishery as a designated fishery, where having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery-

(a) is important to the national interest; and

(b) requires special conservation and management measures for effective sustainable use of the fisheries resources.

Justification: We have deleted the Board.

Committee Observation:

The amendment was adopted as it seeks to provide for declaration of designated fisheries to be by the Cabinet Secretary which is in line with role of the CS in declaration of designated fisheries in other provisions of the Act.

Clause 44

95. Amend the sub-clauses (1) and (2) by inserting the bolded text below to read as follows:

44 (1) The Cabinet Secretary may, by notice in the Gazette, declare any species of fish to be endangered or threatened with extinction in Kenya, and shall, to the extent possible, include those species relevant to Kenya that have been declared endangered or threatened under any international agreement or instrument to which Kenya is party.

(2) Unless otherwise provided by the Cabinet Secretary, no person shall engage in fishing for, catch, possess, transport, process, buy or sell any species of fish and/or fish products declared endangered or threatened with extinction pursuant to sub-clause (1).

Justification: For clarity.

Committee Observation

The amendment was adopted with necessary modifications as it provides for clarity, the declaration of endangered fish is with regards to Kenya in addition to those declared in international agreement. Further prohibit the sale of fish products emanating from endangered species.

Clause 53

96. Amend the marginal note to read “Import of fish and fish products” and in the provision:

53 (1) No person shall import any fish or fish products into Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed, and the authorization shall only be given upon production of an environmental impact assessment report on the effect of each introduction.

Add a new sub-clause 53 (6); (6) A person who contravenes sub-clause (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding three years or to both.

Justification: The deletion is for clarity because the definition of fish includes live fish. The addition of a fine is to enable enforcement.

Committee Observation:

The amendment was adopted as the deletion is of the word “live” is for clarity purposes as the definition of “fish” includes live fish. The addition of a fine is to enable enforcement.

Clause 54

97. Amend as follows: - Delete ‘live’ from the marginal note. 54 (1) No person shall export any fish or fish product from Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed.

Justification: The deletion is for clarity because the definition of fish includes live fish.

Committee Observation:

The amendment was adopted as the deletion is of the word “live” is for clarity purposes as the definition of “fish” includes live fish.

Clause 64

98. Amend Clause 64 (2) and replace it as follows: - Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities in areas under their respective jurisdiction, are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government shall in consultation with the Cabinet Secretary take such measures as prescribed.

Justification: For clarity

Committee Observation:

The amendment was adopted as it provides for clarification on the role of enforcement which is by the respective county government. Under the Constitution functions of defunct local authorities was devolved to County Governments.

Clause 82

99. Replace reference to Clause 82 in accordance with Clause 79.

Justification: Cure a mistake in cross-referencing. Clause 83 should refer to confidential data as per Clause 80, as opposed to "Clause 82" which is on public access to information.

Committee Observation:

The amendment was adopted as it corrects a cross-referencing error and provides for the role of the County Director in managing information under the Act

Clause 83

100. Replace reference to Clause 90(3) with 85(1) to cure cross-referencing error.

Committee Observation:

The amendment was adopted as it corrects a cross-referencing error.

Clause 85

101. Amend Clause 85 (1) as follows: -

85 (1) The Director General may approve the grant or renewal of licenses and authorization for any purpose specified in Clause 86 after all inspections, verifications and other pre- licensing requirements under this Act have been discharged.

Justification: Operational efficiency.

Committee Observation:

The amendment was adopted as it clarifies the role of the Director-General in issuance of licenses and provides for operational efficiency.

Clause 87

102. Amend the marginal note as follows: - replace "requirements" with 'grounds" so that it reads as "Grounds for denial of licenses and authorizations"

Justification: For clarity.

Committee Observation:

The amendment was noted however as a matter of practice the House does not amend marginal notes at the Committee Stage.

Clause 88

103. Amend Clause 88 (1) (d) as follows: - (d) be accompanied by a fishing plan which shall specify for each month of the full period of validity of a license or authorization, the— (iv) area in which fishing and/or fishing related activities will take place.

Justification: This increases the mandate to cover fishing related activities.

Committee Observation:

The amendment was adopted as seeks to expand the information required under fishing plans to include information on where fishing related activities will take place which is important for regulation.

Clause 89

104. Amend Clause 89 (6) as follows: - (6) A person who contravenes sub-clause (3), (4) or (5) commits an offence and shall be liable on conviction to a fine not exceeding three hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both.

Justification: Inserted “shillings”.

Committee Observation:

The amendment was adopted as it clarifies the amount prescribed as a fine is in shillings.

Clause 90

105. Amend as follows: - (1) Where commercial employment is foreseen in relation to the activity for which the license or authorization is sought, it shall be a condition of the license or authorization that citizens of Kenya possessing the necessary qualifications and experience shall be given preference for employment, and such employment shall be in accordance with applicable labour laws and any other laws governing safety at sea.

Justification: Compliance with relevant labour laws and laws relating to safety at sea.

Committee Observation:

The amendment was adopted. It seeks to provide that where persons are employed by persons issued with licenses under the Act that employment should be in compliance with relevant labour laws and laws relating to safety at sea.

Clause 91

106. Amend as follows: - 91 (1) A license issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one calendar year and may be renewable, subject to any fisheries management decision taken in accordance with this Act and the terms and conditions set out in the license.

91 (2) An authorization issued pursuant to Clause 83 (5) shall be valid for a period prescribed by the Director-General.

Justification: For clarity.

Committee Observation:

The amendment was adopted as it clarifies on the validity period of licenses issued under the Act.

Clause 99

107. Amend sub-clause 99 (1) (a) as follows:

99 (1) (a) maintaining a fishing logbook for each fishing trip in the area to which the relevant license applies in the English language or other language approved by the Director-General, which shall include:

(ii) the noon position of the vessel and, where applicable, the set start and finish positions of the fishing gear and soak time or the number of hooks and the sea surface temperature;

108. Add new 99 (1) (a) (vi) as follows: 99 (1) (a) (vi) by-catches of non-target species

99 (1) (c) (ii) certifying that all information provided pursuant to subparagraphs (a), (b) and (c) is true, complete and correct.

Justification: For clarity.

Committee Observation:

The amendment is a cleanup of the provision and enhances the reporting requirements for industrial fishing vessels to include catches of non-target species

Clause 103

109. Amend as follows:

(5) The Director-General shall maintain or cause to be maintained a fishing vessel register in which shall be entered the following information in respect of the vessel

—

(a) the name, street address, telephone number and email address of the owner and where applicable, the previous owner;

Amend Clause 103 as follows:- Delete fax number in 103 5 (a) no longer in use

Justification: For clarity.

Committee Observation:

The amendment is unnecessary, hence not adopted.

Clause 105

110. Amend Clause 105 (1) as follows: - Licenses issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—

- (a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by regulations.

Delete 105 (b).

Justification: These functions have been devolved to the counties and relevant regulations are in place.

Committee Observation:

The amendment was adopted as recreational fishing is a function devolved to county governments hence requirements should be issued by the County Director.

Clause 117

111. Delete Clause 117.

Justification: Given that under Clause 122 an aquaculture license-holder has the exclusive rights to harvest their fish which requires an aquaculture permit, a license is sufficient. It does not make sense to have both when one confers the same right that the other does.

Committee Observation:

The amendment was not adopted as the provision provides for clarity.

Clause 121

112. Insert new condition (c) under sub-clause 3 to read as follows: 121. (3)(c) “measures to be taken to minimize the escape of waste products and the pollution of land and water”.

Justification: To include pollution mitigation measures.

Committee Observation:

The amendment was adopted as it provides for pollution mitigation measures when issuing aquaculture licenses.

Clause 122

113. Amend the clause to read as follows: - An aquaculture license holder shall apply to the Director-General for an aquaculture permit as provided under the relevant regulations.

Amend the marginal note to read as “Aquaculture Permits”

Justification: For clarity given the proposed deletion of Clause 117. The Aquaculture Regulations have substantive provisions on aquaculture permits.

Committee Observation:

The amendment was not adopted as the provision provides for clarity.

Clause 127

114. Amend clause 127 (1) to read as follows: -

127 (1) The Cabinet Secretary may, on behalf of the Government of Kenya and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities

Remove “and/or” at the end of sub-clause (2)(a)(iv).

(iv) such other persons or bodies as the Cabinet Secretary considers appropriate; ~~and/or~~

Justification: Correcting a typographical error. To align with the proposed deletion of the provisions relating to the Fisheries Advisory Council.

Committee Observation:

The amendment was adopted with modifications as it is a cleanup. However there is not clarity that the permit to foreign fishing vessels is issued by the Cabinet Secretary on recommendation of the Director-General of KFS.

Clause 134

115. Delete clause 134 and replace it with the following: -

134 (1) Nothing in this Act or Regulations made thereunder affects the entry of a vessel to port in accordance with the laws of Kenya for reasons of force majeure or distress.

(2) The Director-General may grant a vessel that falls within the scope of this Act entry into port for reasons of force majeure or distress, provided that:

(a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and

(b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

Justification: For clarity.

Committee Observation:

The amendment was adopted as it provides for clarity on conditions under which vessels may be granted access in instances of distress.

Clause 135

116. Amend sub-clause 135 (1) to read: - An authorized officer may give such directions as are reasonably necessary for the purposes of exercising any of his or her powers under this Act. Delete sub-clause (6) and in line with the added definitions of “monitoring”, “control” and “surveillance”.

Justification: For clarity and to harmonize with the new definitions of monitoring control and surveillance in Clause 2.

Committee Observation:

The amendment was adopted for clarity and to harmonize with the new definitions of “monitoring, control and surveillance” introduced in clause 2.

Clause 139

117. Amend sub-clause 139 (1) as follows: (1) (i) any Kenyan fishing vessel within or outside the Kenya fishery waters.

Justification: Expansion of scope.

Committee Observation:

The amendment was adopted to align with the terminology used in the Act and make reference to power to stop, enter or board vessels is with regards fishing vessels which are within Kenya fisheries water.

Clause 141

118. Amend sub-clause 141 (1) as follows: Delete the ‘or’ between sub-clause 141 (1) (b) and sub-clause 141 (2).

Justification: Correcting a typographical error.

Committee Observation:

The amendment was adopted as it provides for clarity and cleans up a typographical error.

Clause 144

119. Amend sub-clause 144 (1) as follows: (1) An authorized officer may remove any part from the vessel seized pursuant to this Act for the purpose of immobilizing that vessel where the operator is uncooperative, but in any event the authorized officer shall take reasonable measures to ensure that such removal shall not cause a permanent or material damage to the vessel.

Justification: ‘in co-operative’ changed to ‘uncooperative’.

Committee Observation:

The amendment was adopted as it is a cleanup of a grammatical error.

Clause 146

120. Amend Clause 146 as follows: Delete the word ‘Board’ after programme in sub-clause 146 (1).

Insert new sub-clause (3) and replace by the following:

146 (3) An observer shall on request identify himself or herself and produce proof of identification as an observer.

Justification: For clarity. The observer programme does not have a Board.

Committee Observation:

The observer programme does not have a Board hence the deletion further amendment requires an observer to identify themselves when required.

Clause 147

121. Amend clause 147 to read as below: 147 (1) The Director-General may, in writing appoint-
- (b) Observers for purposes of the observer programme established under clause 147 or any international agreement and arrangements.

Justification: The word Board deleted for clarity.

Committee Observation:

The amendment was adopted as observer programme does not have a Board hence the deletion of the word "Board".

Clause 150

122. Insert a new sub-clause (2) to read: - Where any person mentioned in sub-clause (1) is forced by circumstances to stay on board the vessel for a prolonged period of time, provide him, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator.

Renumber current sub-clause (2) as sub-clause (3).

Justification: To align with best international practices.

Committee Observation

~~The amendment was adopted as it align with best international practices to provide where observers is forced to be on board the vessel for a prolonged period of time they be provided with food, accommodation and medical facilities.~~

Clause 155

123. Amend 155 (2) by adding "shall" after the word "vessel": 155 (2) No person being the operator or a crew member of a vessel shall-

Justification: For clarity.

Committee Observation:

The proposed amendment was adopted as it is a cleanup and makes the prohibitions against obstruction of authorized persons and related matters mandatory.

Clause 156

124. Amend sub-clause 156(4) to read as follows:
- a. (4) Where the mobile transceiver unit or other device ceases to operate as required, the operator shall immediately notify the Director-General and submit to him a report of the vessel's name, call sign, position expressed in latitude and longitudes to the minutes

of arc, course and speed, and the date and time of the report at intervals of one hour or such other period as the Director-General may notify the operator, and—

In sub-clause 156(5), add as (d) “accuracy requirements” and renumber the rest of the list as follows:

- (5) The operator shall comply with such other conditions that may be prescribed and such additional conditions that may be required by the Director-General, including-
 - (a) the type of vessel monitoring system equipment to be used
 - (b) installation procedures;
 - (c) operational requirements;
 - (d) accuracy requirements
 - (e) information requirements:
 - (f) confidentiality: and
 - (g) reports.

Insert sub-clause (6) to read: -

The Director-General may require the operator of any fishing vessel, as a condition of license or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director-General, remote electronic monitoring.

Renumber current sub-clauses (6) and (7), sub-clauses (7) and (8) respectively.

Justification: Alignment with best practices, and ensures better monitoring, control and surveillance.

Committee Observation:

The amendment was adopted as it aligns with best practices, and ensures better monitoring, control and surveillance on reporting times of vessels.

Clause 157

125. Insert a clause before the existing “Designation of port”

- (1) The Cabinet Secretary shall designate and publicize by notice in the gazette, the port or ports to which vessels engaged in fishing and fishing related activities may request entry.
- (2) The Cabinet Secretary shall provide a list of ports designated pursuant to paragraph (1) to the Food and Agriculture Organization of the United Nations and to any regional fisheries management organization pursuant to applicable conservation and management measures.

Justification: Alignment with international obligations, specifically the Port State Measures Agreement. (PSMA).

Committee Observation:

The amendment was adopted as it aligns with Kenya international obligations, specifically the Port State Measures Agreement. (PSMA) on designation of fishing ports.

Clause 158

126. Amend Clause 158 as follows:

158. (1) Authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port:

(a) has engaged in illegal, unreported and unregulated fishing, or in fishing-related activities in support of such fishing, or

(b) appears on a list of vessels which have engaged in illegal, unreported and unregulated fishing or fishing related activities in support of such fishing adopted by a regional fisheries management organization.

(2) Without prejudice to sub-clause (1), authorization for a vessel to enter a port may be given exclusively for the purpose of:

(a) inspecting the vessel; and

(b) taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring or eliminating illegal, unreported and unregulated fishing and fishing-related activities in support of such fishing.

(3) The Director-General shall communicate any decision taken pursuant to sub-clause (1) or (2) to the vessel or its representative.

(4) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not less than fifty million shillings or to imprisonment for a term not less than ten years or to both.

Justification: For clarity

Committee Observation:

The amendment was adopted as it is a cleanup of the provision and provides clarity on circumstances vessels may be prohibited entry into ports.

Clause 160

127. Amend Clause 160 as follows:

(1) In carrying out inspections of foreign fishing vessels in port, authorized officers shall follow such procedures as may be prescribed or as the Director-General may require.

(2) A report of the inspection shall promptly be provided to the Director-General in such form as may be prescribed or as the Director-General may require.

Add 'foreign' between 'of' and 'fishing'.

Justification: For clarity

Committee Observation:

The amendment was adopted as it provides clarity that the inspection relates to foreign vessels.

Clause 161

128. There is no clause 161.

Committee Observation:

The amendment was noted and appropriate amendment shall be made to align the numbering of the Bill.

Clause 179

129. Amend clause 179 as follows: 179 (2) Where a person is charged with the contravention of clause 126, the onus shall be on that person to prove that his entry into the fishery waters was for a purpose recognized by international law. (3) Where a person is charged with the contravention of section 79, the onus shall be on that person to prove that the information given was true, complete and correct.

Justification: Correcting cross-referencing errors

Committee Observation:

The amendment was adopted as it cleans a cross-referencing error.

Clause 182

130. Amend Clause 182 by removing reference to the “Attorney General” and replacing it by “Director of Public Prosecution”.

Justification: This is moved to the Director of Public Prosecutions who is responsible for charging criminal offences.

Committee Observation:

Prosecutorial powers are under the Director of Public Prosecution in accordance with the Article 157 of the Constitution. Hence proposal was adopted.

Clause 198-207

131. Delete Clause 198 -207.

Justification: In line with Cabinet directive dissolving the Fish Marketing Authority.

Committee Observation:

The Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the

Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

Clause 210

132. Clause 210 should be amended as follows: 210 (1) The Fisheries Management and Development Act, Cap 378 is hereby repealed.

210 (2). (b) All property, except such property as the Cabinet Secretary may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority shall with approval of the Cabinet Secretary vest in the State Department for the Blue Economy and Fisheries and the Service, subject to all interests, liabilities, charges, obligations and trusts affecting such property;

(c) Except as otherwise provided in paragraph (b) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Fish Levy Trust Fund and the Kenya Fish Marketing Authority immediately before the commencement of this Act shall, with the approval of the Cabinet Secretary, remain vested in the Government and may be enforced by or against the Government;

(d) All persons, being public officers, who, immediately before the commencement of this Act, are employed by the Government for the purposes of the activities of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority, shall at the commencement of this Act be, deemed to be staff of the State Department for the Blue Economy and Fisheries and the Service, in accordance with this Act, or their deemed secondment otherwise ceases in accordance with the terms of such secondment;

(e) Where, at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority pursuant to disciplinary proceedings against such employee, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the State Department for the Blue Economy and Fisheries and the Service, serve or continue to serve such penalty to its full term as if it had been imposed by the State Department and the Service.

Justification: The Bill should repeal the FMDA which already repealed the Fisheries Act, Trout Ordinance and Fisheries Protection Act. The transitional provisions should also be amended to align with the dissolution of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority.

Committee Observation:

The amendment was adopted with necessary modification to provides for the transitional provisions for existing bodies and repeal of the existing Act.

Second schedule

133. Title should change to “Designated fish landing ports” and not “Designated fish landing stations”. The correct cross-referencing Clause 50 (2) and not 53(2). Retain content as is.

Justification: Correcting a cross-referencing error.

Committee Observation:

The amendment was adopted with necessary modification as it corrects a cross-referencing error.

Third schedule

134. Delete the Third schedule: In line with Cabinet directive dissolving the Fish Marketing Authority.

Committee Observation:

The amendment was adopted noting the repeal of the Fish Marketing Authority.

Proposed Transfer of Kenya Marine and Fisheries Research Institute to the Fisheries Management and Development Bill.

135. Since the Kenya Fish Marketing Authority’s functions are being taken over by the Ministry, it is the proposal of the State Department that Section 198 all the way to Section 207 be utilized by the introduction of Kenya Marine Fisheries Research Institute (KMFRI) as provided hereunder.

1. Establishment of the Institute.

(1) There shall be established an institute to be known as the Kenya Marine and Fisheries Research Institute (KMFRI) which shall be the successor to the Kenya Marine and Fisheries Research Institute (KMFRI) specified in paragraph 4 of the Fourth Schedule to the Science, Technology and Innovation Act, 2013.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) entering into contracts;
- (d) borrowing and lending money; and
- (e) doing or performing all such other things or acts necessary for the performance of its functions, and which may lawfully be done or performed by a body corporate.

2. Mandate and functions of the institute.

The mandate and function for which the institute is established is to –

- a) Conduct research in order to generate scientific data and information in "marine and freshwater fisheries, aquaculture, socioeconomics, environmental and ecological studies, and marine research including chemical and physical oceanography and hydrography, marine geology, minerology, bio-prospecting, and energy, for sustainable development of the blue economy;
- b) Promote local, regional and international collaboration and partnerships;
- c) Collaborate with other organizations and institutions of higher learning in competitive capacity development for exploitation of the blue economy;
- d) Transfer innovative technologies in marine and freshwater fisheries, aquaculture and the blue economy to stakeholders;
- e) Promote community participation and outreach programs,
- f) Conduct capacity development on fisheries resources; and
- g) Conduct all such things as appear to be necessary, desirable or expedient to carry out its functions.

3. Objectives of the institute.

The objectives of the institute shall be to –

- a) undertake research and innovation to drive transformation of Blue Economy (BE) towards sustainable development;
- b) disseminate scientific information to support blue economy development; and
- c) strengthen community participation and integration of indigenous knowledge in research development.

4. Powers of the Institute.

The Institute shall have powers necessary for performance of its functions including entering contracts, and borrowing funds subject to approval.

5. National coordination mandate.

The Institute shall serve as the national coordinating institution for fisheries, marine, aquaculture, and socioeconomics research for blue economy development in Kenya.

PART III — GOVERNANCE OF THE INSTITUTE

6. Board of Management.

- (1) The Institute shall be governed by a Board of Management.
- (2) Board of Management shall consist of —
 - (a) a Chairperson appointed by the President;
 - (b) the Principal Secretary responsible for blue economy and fisheries;
 - (c) the Principal Secretary responsible for the National Treasury;

- (d) a representative of the Attorney-General;
- (e) four persons appointed by the Cabinet Secretary with relevant expertise; and
- (f) the Director-General.

(3) Functions of the Board of Management.

The functions of the Board of Management shall be to –

- a) carry out the objects and functions of the institute;
- b) advise the Cabinet Secretary on matters of policy relating to blue economy, marine and freshwater fisheries, aquaculture, and socioeconomics research;
- c) oversee the effective co-ordination of the operations of the institute;
- d) ensure that the activities of the institute are consistent with the policy and objectives of the Government, and the national priorities relating to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;
- e) approve, oversee and evaluate the organizational structure and on a continuing basis, the programs being implemented by the institute;
- f) direct strategic research, prioritize and determine the research agenda;
- g) co-operate with other lead agencies and organizations in carrying out marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;
- h) develop an efficient and cost-effective internal management structure, strategic and annual plan of the institute;
- i) implement and fulfil the policies and agreed objectives, performance targets and service standards of the institute;
- j) administer the approved Human Resource instruments, including appointments, dismissals, remuneration and retiring benefits, of employees in the Institute;
- k) manage the secondment of personnel to and out of the Institute in co-operation with the Ministry;
- l) provide advice as required on all matters within the responsibility of the institute;
- m) hire the Director General, Directors and Senior staff through the human resource (HR) instruments; and
- n) perform such other functions as may be necessary for the exercise of its powers and functions under this Act.

(4) Powers and term of office of the Board of Management.

(a) The Board of Management shall have all the powers necessary for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board of Management shall have the power to –

- i) enter into contracts;
- ii) manage, control and administer the assets of the institute in such manner and for such purposes as best promotes the purpose for which the institute is established;
- iii) receive gifts, grants, donations, fees or endowments made to the institute and make disbursement therefrom;
- iv) open such bank accounts as may be necessary for the funds of the institute into which all moneys received by the institute shall be paid in the first instance and out of which all payments made by the institute shall be made;
- v) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the institute; and
- vi) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the institute's funds not immediately required for the purposes of this Act, as it may determine.

(b) The chairperson and members of the Board of Management shall –

- i) be appointed on such terms as the appointing authority may determine;
- ii) ~~have qualification of a minimum of Master's Degree in relevant field; and~~
- iii) hold office for a term of three years' renewable for one further term.

(c) A person shall cease to be a member of the Board of Management if such person –

- i) is unable to perform the functions of his office by reason of mental or physical infirmity;
- ii) is adjudged bankrupt;
- iii) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- iv) is absent from three consecutive meetings of the Board of Management without the permission of the Board of Management;
- v) resigns in writing, addressed, in the case of the Chairman to the President, and in the case of any other member, to the Cabinet Secretary;
- vi) fails to declare his interest in any matter being considered or to be considered by the Board of Management; or

vii) violates Chapter Six of the Constitution.

(5) Committees of the Board of Management.

(a) The Board of Management may establish committees necessary for performance of its functions under this Act; and

(b) The Board of Management may co-opt into the membership of a Committee established under subsection (5a), such other persons whose knowledge and skills are found necessary for the functions of the institute.

(6) Delegation by the Board of Management.

The Board of Management may delegate functions to committees or officers.

(7) Conduct of business and affairs.

The Board of Management shall conduct its affairs in accordance with *Mwongozo* Code, but subject thereto, the Board of Management may regulate its own procedures.

7. The Secretariat of the Board of Management.

The Secretariat of the Board of Management shall comprise of –

- a) the Director General;
- b) Directors;
- c) Corporation Secretary; and
- d) any other staff as directed by *Mwongozo* code of governance

8. Director-General.

(1) There shall be a Director-General of the Institute who shall be the chief executive officer of the Institute and who shall be appointed and serve in accordance with the provisions of this section. The Director-General shall be –

- a) competitively appointed through HR instruments on such terms and conditions of service as the Board of Management shall determine, for a term of three years' renewable once based on performance;
- b) an ex officio member of the Board of Management and shall have no right to vote at any meeting of the Board of Management; and
- c) responsible to the Board of Management for all the activities of the Institute.

(2) A person shall qualify for appointment as Director General if that person—

- a) holds a Doctor of Philosophy (PhD) degree from a recognized institution in any of the following disciplines:
 - (i) fisheries,
 - (ii) aquaculture,

- (iii) aquatic sciences,
 - (iv) marine sciences;
 - (v) Environmental science;
 - (vi) Economics in natural resources, fisheries, and environment; and
 - (vii) Any other related courses or equivalent from a recognized institution.
- a) is a citizen of Kenya;
 - b) has at least fifteen (15) years' research experience in the above areas,
 - c) has at least five (5) years' experience in leadership or at senior management level in research; and
 - d) meets the requirements of chapter six of the Constitution.

(3) The Director-General shall be the chief executive officer of the Institute and shall be responsible to the Board of Management for the day-to-day management of the affairs of the institute and shall, on behalf of the Board of Management and subject to this Act, have the general superintendence of all research matters within the scope of this Act.

(4) Without prejudice to the generality of the foregoing, the Director-General shall—

- a) Advise the Board of Management on all policies and strategies related to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;
- b) Be responsible for the execution and communication of the Board of Management's strategies, decisions and policies;
- c) Provide regular, thorough and prompt communication to the Board of Management on key technical, financial and administrative matters;
- d) Serve as the link between the Board of Management and the Management;
- e) Serve as the Secretary to the Board of Management;
- f) Be responsible for the day to day operations of the institute;
- g) Be responsible for the achievement of the objectives of the Institute;
- h) Ensure that the Institute has effective management structures, processes and systems; and
- i) Foster a corporate culture that promotes ethical practices and good corporate citizenship.

9. Directors.

(1) The Director shall be the head of the Directorate and shall be answerable to the Director General and the Board of Management for the day-to-day management of the affairs of the Directorate and shall, on behalf of the Director General and subject to this Act, have the general superintendence of all matters in the Directorate.

(2) The Director shall be competitively appointed on such terms and conditions of service through the HR instruments by the Board of Management for renewable term of five years based on performance.

10. Removal of Director General and Directors from office.

The Board of Management may remove the Director-General and the Directors from office in accordance with the terms and conditions of service for:

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehavior; or
- (c) incompetence or neglect of duty.

11. Staff of the Institute.

The Institute may appoint staff as necessary for its functions.

PART IV — FINANCIAL PROVISIONS

12. Funds of the Institute.

The funds of the institute shall comprise of—

- (a) monies allocated by the National Assembly for the purposes of the Institute;
- (b) monies accruing to or vesting in the Institute in the course of the exercise of its powers or the performance of its functions;
- (c) fees and royalties from registered patents, inventions or improvements; and
- (d) monies from any other source provided for or donated or loaned to the Institute.

13. Financial year.

The financial year of the institute shall be the period of twelve months beginning 1st July and ending on the 30th June each year.

14. Annual estimates.

(1) The Board of Management shall prepare annual estimates of revenue and expenditure.

(2) The annual estimates shall make provision for all the estimated expenditure of the Institute for the financial year, and in particular, the estimates shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the employees of the Institute;
- (b) the payment of pensions, gratuities and other charges in respect of the employees of the Institute;
- (c) monies to fund seed research programmes; and
- (d) the proper maintenance of the buildings and grounds of the Institute.

15. Accounts and audit.

(1) The Board of Management shall cause to be kept proper books of accounts and other books in relation thereto of all its undertakings, funds, activities and property of the institute.

(2) The Board of Management shall ensure that all money received is properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities.

(3) The accounts of the institute shall be audited in accordance with the Public Audit Act, 2015.

16. Annual reports.

The Board of Management shall, within three months after the end of each financial year, submit to the Cabinet Secretary a report on the operations of the Institute for the period immediately preceding financial year.

17. Borrowing powers.

The Board of Management may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.

18. Investment powers.

The Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the institute, whether in any fund established by it, in securities or in any form of property in which the Trustees are authorized to invest under the Trustee Act (Cap.167), and in such other securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.

PART V — COLLABORATION AND RESEARCH

19. Partnerships and collaboration.

The Institute may collaborate with national, regional and international partners.

20. Technology and innovations transfer.

The Institute shall promote technology and innovations transfer of research outputs.

21. Data management.

The Institute shall maintain national research databases.

22. Intellectual property rights and scientific publications.

Intellectual property and scientific publications shall be managed in accordance with relevant laws.

PART VI — GENERAL PROVISIONS

23. Protection from liability.

No personal liability shall attach for actions done in good faith.

24. Disclosure of interest.

Members shall disclose conflicts of interest.

25. Regulations.

The Cabinet Secretary may make regulations for implementation.

PART VII — TRANSITIONAL AND SAVINGS

26. Commencement of the Act

Upon commencement of this Act—

(1) All the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former institute shall, by virtue of this subsection, vest in the Institute.

(2) All rights, powers and liabilities which immediately before such day were vested in, imposed on or enforceable against the former institute shall by virtue of this subsection, be vested in, imposed on or enforceable against the institute.

(3) Any reference in any written law or in any document or instrument to the former institute shall, on and after the commencement of this Act, be construed to be a reference to the Institute.

(4) The annual estimates of the former institute for the financial year in which this Act comes into operation shall be deemed to be the annual estimates of the institute for the remainder of that financial year: Provided that such estimates may be varied by the Institute in such manner as the Cabinet Secretary may approve.

(5) The administrative directions made by the former institute or by the Cabinet Secretary which were in force immediately before the commencement of this Act shall, on or after such day, have effect as if they were directions made by the institute or the Cabinet Secretary under this Act.

(6) Any person who was a member of the former institute immediately before the commencement of this Act shall remain in office for the unexpired period of that person's tenure.

(7) Any person who immediately before the commencement of this Act was the Director-General or employee of the former institute shall remain in office for the remaining period of his or her term of office.

(8) Any person who was an officer or employee of the former institute immediately before the commencement of this Act shall be deemed to be an officer or employee of the Institute subject to such terms of service as the Board of Management may, on the advice of the Salaries and Remuneration Commission, determine.

Committee Observation:

The amendment was adopted as it seeks to establish the Kenya Marine and Fisheries Research Institute under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Establishing the Institute in the Act with the creation of direct link to its sectoral Ministry will enhance the governance and management of the Institute. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of on blue economy research and blue economy carbon trading development. This will further contribute to effective capacity building and knowledge transfer to relevant stakeholder to promote sustainability and growth in the blue economy sector

3.3.2 Submissions from the Council of Governors

H.E Gov. Paul Otuoma, accompanied by Ms. Mary Mwiti, the Chief Executive Officer of the Council of Governors and Mr. Leonard Bett (Legal Counsel) appeared before the Committee and briefed on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) as follows:

Long Title

127. Amend to read as follows:

AN ACT of Parliament to provide for the sustainable development, management, utilization and conservation of fisheries and other aquatic resources to enhance the livelihood of communities; provide for the roles of the National and County Governments; and for connected purposes.

Justification: Noting that fisheries is a devolved function, it is important for the law to define the roles and responsibilities of the two levels of government taking into account the assignment of functions between the National and County Governments.

Committee Observation:

The amendment is unnecessary and was not adopted as the Act provides for regulation, management and development of the sector and further in the substantive provisions set out roles of the various actor.

Clause 2

128. Amend the definition of the terms “agent”, “authorized officer”, “fisheries officer”, “fish landing station”, “fishery”, “Government”, “illegal fishing”, “landing”, “subsistence fishing”, “test fishing operation” as follows:

“**agent**” means any person or unit appointed by the National Government or County Governments to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 17 (1) (c);

“**authorized officer**” means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary or County Executive Committee Member under section 18;

“**fisheries officer**” means any person in the public service of or above the rank of assistant fisheries officer;

“**fish landing station**” means a point on the shore of any waters or coastline of which the County Executive Committee Member responsible for matters relating to lands has by notice in the gazette designated as a point to land fish and includes fish landing site;

“**fisheries**” means all activities relating to the management and utilization of fish resources and its environment starting from pre-production, production, processing until marketing and includes a place where fish is caught for commercial or recreational purposes.

“**designated Fishing Port**” means fishing port designated by the Cabinet Secretary under section 50 (1) (b) for purposes of imports and exports of fish and fish product.

“**Government**” means the National Government and County Governments;

“**illegal fishing**” includes—

(c) activities carried out in violation of relevant laws of Kenya or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization;

“**landing**” means bringing any fish or fish product to the fish landing station or fish landing port from within or outside the Kenya fishery waters and offloading;

“**subsistence fishing**” means harvesting fish as a source of food for a person’s consumption or their dependents or community and is not for sale or barter;

“test fishing operation” means any fishing operation undertaken over a limited period of time with the approval of the Director General or County Executive Committee Member for the purpose of testing the feasibility of commercial fishing operations with a view to establishing fishery operations, and not for commercial purposes;

Justification: To provide for recognition of the County Governments officers responsible for fisheries as fisheries is a fully devolved function under the Fourth Schedule to the Constitution.

Committee Observation:

The amendments were adopted with necessary modifications including definition of “county fisheries officer” to provide for recognition of the County Governments officers responsible for fisheries noting fisheries is devolved function under the Fourth Schedule to the Constitution .Further recommendation is the inclusion and provision of definitions of County Director and CECMs responsible for fisheries in the interpretation.

Clause 4

129. Amend clause 4 to read as follows:

4. (1) The objective of this Act is to protect, manage, use and develop the fisheries and aquatic resources in a manner which is consistent with ecologically sustainable development of fisheries value chain and to enhance food security.

4(2)(q) ensuring effective co-operation between the National and County Governments in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources

Justification: To align to the provisions of Article 6(2), 186 and 189 of the Constitution of Kenya.

Committee Observation:

The amendments were adopted with necessary modifications taking cognizance of the role of county Government in matters relating to fisheries and further expands the scope of the Bill to deal with matters related to Blue Economy.

Clause 5

130. Amend by deleting clause 5(5) and amend clauses 5(1)(h), (2) and (3) to read as follows:

(5)

(1) (h) The chairperson of the Council of Governors committee responsible for fisheries; and

(f) the vice chancellor from a university or research institution with expertise in fisheries and who shall be nominated by the University Council;

(g) the chairperson of the consumer federation nominated by the national consumer federation;

(i)the chairperson of the national umbrella of body fisheries.

(2) The function of the Council shall be to review and advise the Government on—

(3) The Vice Chairperson of the Council shall be one of the members nominated by the Council of County Governors under section 6(1)(h).

Introduce the following new clauses

(6)The Council may establish such working groups and committees as it deems necessary;

(7) The Council shall meet not less than twice in a year;

Justification: To provide for sufficient representation of the County Governments in the Council.

Also, we propose amendment of clause 6(2) to require the Council to advise both levels of government as opposed to only the National Government.

Further, in the spirit of Article 6(2), 186 and 189 of the Constitution, we opine that the County Governor Chair of the Council of Governors Committee on matters related to fisheries be the Vice-Chairperson of the Council.

In addition, the membership of the Council should constitute high level representation.

Committee Observation:

The amendment was not adopted as the Fisheries Advisory Council is deleted in line with government directive on reduction of state corporations.

Clause 6

131.Amend by reviewing the name of the Service to reflect the functions of the National Government under the Fourth Schedule of the Constitution.

“Kenya Fishing Service” as opposed to Kenya Fisheries Service.

Justification: Pursuant to the provisions of section 1 of Part 2 of the Fourth Schedule to the Constitution, agriculture including fisheries are functions fully devolved to the County Governments. The naming of a national agencies as “Kenya Fisheries Service” goes against the aforementioned provisions of the Constitution as it seeks to claw back on devolved functions. The Council thus opines a change of the name of the institution to reflect the functional assignment.

Committee Observation:

The amendment was not adopted as it is superfluous. The name of the agency is not a final determinant of the functions of the agency.

Clause 8

132.Amend clause 8 of the Bill by deleting clauses8(c)(e)(f)(g) (i)(n)(o)(p) q)(r) and amend clauses 8(a)(b)(e) (j) (h)(m) (r)(u) and (v) to read as follows;

8. The Service shall—

- (a) the development of standards on management, sustainable use, development and protection of the fisheries resources;
- (b) Advise the Government on formulation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act;
- (c) create public awareness and support on protection and conservation of fisheries resources;
- (d) consult as appropriate with Government and persons, including stakeholders, industry, regional and international organizations and experts, whether local or foreign, on matters falling within the scope of this Act;
- (e) collect and analyze data in relation to resources and activities on imports, exports and within exclusive economic zone of this Act;
- (f) develop standards on fish safety and quality;
- (g) identify and promote construction of any works deemed necessary for the sustainable protection and conservation of fisheries resources and export;
- (h) co-ordinate fish quality assurance and operations of the marine and international waters;
- (i) co-ordinate and or in collaboration with the County Governments undertake monitoring, control and surveillance of all activities within the scope of this Act; and

Justification: To align to the provisions of section 1 and 7 of Part 2 of the Fourth Schedule to the Constitution which has devolved agriculture including fisheries, trade development and regulations to the County Governments. It is therefore imperative that the provisions of clause 9 is aligned to the functional assignment between the two levels of government.

In addition, there need to clearly demarcate roles of the service to speak to its responsibilities in Kenya's international waters and beyond the EEZ.

Committee Observation:

The amendments were adopted with necessary modifications to align functions of the Service with roles assigned to the two levels of Government.

Clause 10

133. Amend clause 10(1)(a) and (c) to read as follows:

- 10. (1) The members of the Board shall consist of—
 - (a) a chairperson appointed by the President;

(c)two members, not being public officers, openly appointed by the Cabinet Secretary for their long-term knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;

(ca) Three persons nominated by the Council of County Governors and appointed by the Cabinet Secretary.

Justification: To provide for sufficient representation of the County Governments in the Board of the Service. The functions given to the Service have a direct and indirect impact on the functions of the County Governments and its imperative that they are represented in the Board.

Committee Observation:

The amendment was adopted with necessary modifications to aligns with the provision of State Corporation Act on representative of Board to include the Attorney-General or their representative. Further the amendment seeks to provide for representation of the County Governments in the Board of the Service. Noting the functions given to the Service have a direct and indirect impact on the functions of the County Governments.

Clause 17

Introduce a new clause/part to the Bill to provide for functions of the County Governments:

Functions of the County Governments

The County Governments shall—

- a) ensure the appropriate conservation, sustainable management, use, development and protection of the fisheries resources;
- b) issue licenses, permits as per this Act
- c) formulate and monitor the implementation of policies regarding the conservation management and utilization of all fisheries resources;
- d) manage all fisheries and aquaculture in the county;
- e) prepare and implement fisheries specific management plans for fishery waters;
- f) provide education to create public awareness and support for fisheries conservation, management, development and sustainable use;
- g) collect and analyze data in relation to fisheries resources and activities;
- h) In collaboration with necessary government agencies, control and regulate fish safety and quality;
- i) undertake the development of appropriate fisheries infrastructure;
- j) facilitate investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments;

- k) promote development and introduction of appropriate technologies in aquaculture production, processing and preservation in collaboration with relevant agencies, other county governments and stakeholders;
- l) identify and promote construction of any works deemed necessary for the sustainable development and economic utilization of fisheries resources;
- m) identify opportunities and promote all aspects of fisheries marketing;
- n) arrange and enter into joint ventures or any other forms of investment arrangement for purposes of performing any of its functions;
- o) co-ordinate fish quality assurance and operations of the coastal fisheries, aquaculture and inland and riverine fisheries;
- p) undertake monitoring, control and surveillance of all activities within the scope of this Act;
- q) Promote cooperation amongst fishers, fish traders, fish farmers
- r) perform such other duties and functions as may be assigned by county legislation.

Justification: Constitutionally, County Government are assigned the fisheries function and in the spirit of constitutionalism, it is therefore good practice that this fact is affirmed an provided for in law including spelling out the specific roles and responsibilities of counties as regards fisheries.

Committee Observation:

The amendment was not accepted as the role of counties is provided in various other provisions including clause 32 that enables counties to come up with fisheries management plans.

Clause 17

134. Amend to read as follows:

17. The Cabinet Secretary or the County Executive Committee Member responsible for fisheries may, within their respective jurisdictions and in consultation with the Director-General or the County Director, as the case may be, by notice in the Gazette, appoint a person as an authorized officer for purposes of this Act.

Justification: Fisheries being a devolved function that is primarily undertaken at the county level, then it is only reasonable that the law recognizes and provides for the appointment of authorized officers at the county level as well.

Committee Observation:

The amendment was adopted with necessary modifications to provide for county fisheries officers.

Clause 18

135. Amend to read as follows:

18. (1) The Director-General may, with the approval of the Board, by notice in the Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the Service in carrying into effect the provisions of this Act.

(1a) The County Executive Committee Member may, in consultation with the County Public Service Board, by notice in Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the County government in carrying into effect the provisions of this Act.

Justification: County Executive Committee Members being in charge or responsible for fisheries at the county level, have a similar mandate to hire honorary fishing officers as the case may be.

Committee Observation

The amendment was not adopted. The position of honorary fisheries officers are unnecessary and no such officers have been appointed since enactment of the Act, hence proposal to delete the provision.

Clause 27

136. Amend clause 27 to read as follows:

27. (1) There is hereby established a fund to be known as the Fish Levy Trust Fund.

(2) The Fish Levy Trust Fund shall consist of —

(a) a levy imposed by the Cabinet Secretary under section 28 by Order to require the payment of

levies by persons engaged in fishing or fishing related activities of a fish levy (“the levy”) which may provide requirements relating, inter alia, to activities within the scope of this Act; and the evidence by which a person’s liability to pay the levy, or the payment thereof, may be established, and the time at which any amount shall become payable, provided that artisanal fishers are exempted from payment of the levy.

(3) The fund shall be utilized as follows:

- a) 40 per cent to be utilized at the national level as supplementary funding of activities geared towards and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.
- b) 60 per cent to be remitted directly to the County Governments on pro rata basis for management, development, capacity building of fishing communities and urgent mitigation to ensure sustainability of the fisheries resource.

- (4) The Trust shall be administered by a seven-member Board of Trustees nominated through an open and competitive process and they shall meet the requirements of Chapter six of the Constitution.
- (5) The members of the Board of Trustees shall include—
- a) two representatives from fishers organizations in fresh inland waters and marine waters;
 - b) two persons nominated by the traders exporters association and fish processors;
 - c) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science; and
 - d) two persons with experience in fisheries resources management nominated by the Council of County Governors

Justification: Provide for sharing of the Fund 60% to 40% with counties getting 60pc of the share. This is attributed to the fact that county governments have a primary role to play in creating and improving on the experience of all persons involved in the fishing industry value chain.

Additionally, promoting sustainability and development of fisheries resource in Kenya on the part of the county governments as implementers requires supplementary funding through this Fund.

Committee Observation:

The amendment was adopted with necessary modifications and restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability. Subsequently the Fisheries Research and Development Fund has been proposed to be deleted. The Fisheries Research and Development Fund is yet to be established since the enactment of the Fisheries Management and Development Act in 2016 hence the proposal to delete the provision and transfers its purpose to the Development Fund

Clause 29

137. Amend clause 29 to read as follows:

29. (1) The Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act, through inter alia—
- a) providing a national framework of extension and training services;
 - b) conducting research and surveys;
 - c) spearhead arrangements for the international marketing of fish;
 - d) promote the development of other sustainable methods of in-situ and ex-situ fishing;

- e) developing a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the fish market value chain;
- f) support the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and such other measures and actions as may be approved by the Board.

Committee Observation:

The amendment was not accepted as the role of counties is provided in various other provisions including clauses 32 and 33 that enables counties to come up with fisheries management plans.

New Clause 29 (2)

29. (2) The County Executive Committee Member shall promote the development of fisheries through—

- (a) provision of extension and training services;
- (b) disseminate research and survey's findings;
- (c) promote co-operation among fishers;
- (d) spearhead arrangements for the orderly marketing of fish;
- (e) stocking waters with fish and supplying fish for stocking;
- (f) promote the adoption of alternative means of livelihood amongst fishers
- (g) provide for the establishment of investor friendly licensing and approval systems at the county;
- (h) develop a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the market value chain;
- (i) promote value addition and utilization of fish by products and bycatch;
- (j) providing for the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and
- (o) such other measures and actions as may be provided for in county legislation.

Justification: To provide for the clarity of functions between the National and County Governments as stipulated in the Fourth Schedule to the Constitution.

Committee Observation:

The amendment was not accepted as the role of counties is provided in various other provisions including clauses 32 and 33 that enables counties to come up with fisheries management plans.

Clause 33

138. Amend by deleting clause 32 of the Bill and replace with the following new clause:

County fisheries management plan

33. (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution.

(2) In developing the management measures and plans, referred to in subsection (1), the County Government shall—

(a) take into consideration, to the extent possible, elements of national fisheries management plan; and

(b) ensure that such measures are consistent with the provisions of this Act, including its objective and principles, and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act.

Committee Observation:

The amendment was adopted with necessary modifications as it ensures the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

Clause 34

139. Amend by deleting clause 34 of the Bill and replace with the following new clause:

Consultation and Cooperation between the National and County Governments

34.(1) The Director-General shall ensure that all County Governments are consulted and kept informed, by effective means of communication, of relevant management measures and processes taken pursuant to this Act.

(2) County Governments shall collaborate with the Director-General in the management of fisheries and shall, for this purpose ensure that the Director-General is informed, by effective means of communication, of relevant developments in relation to the management of fisheries within the County.

Justification: To ensure the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional

provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

This clause should be deleted. The clause does not comport with the provisions of the Intergovernmental Relations Act on matters relating to intergovernmental disputes and the procedure conflict resolution thereto.

Committee Observation:

The amendment was adopted was not adopted as the existing clause 32, 33 and 34 provide for such matters.

Clause 36

140. Amend clause 36 to read as follows:

Establishment of Beach Management Units.

36.(1) Each County Executive Committee Member shall establish beach management units within its jurisdiction ensuring structured community participation in fisheries management.

(2) The Cabinet Secretary may in consultation with the Council of County Governors make regulations for the management of beach management units.

Justification: To provide for clarity on the establishment of the BMUs in the respective County Government.

Committee Observation:

The amendment was adopted with necessary modifications provides for clarity on the establishment of the BMUs in the respective County Government. However there is need to provide for payment of BMUs.

Clause 37

141. Amend clause 37 to read as follows:

37. The Cabinet Secretary and respective County Government shall be responsible for planning for the conservation, management, development and sustainable use of all fish and fisheries within Kenya fishery waters.

Justification: Planning is a function of both the National and County Governments under the Constitution. It is therefore imperative that the Bill recognizes and provides for the same as the case may be.

Committee Observation:

The amendment was not adopted as environmental conservation and management including sustainable use of resources is a function of National Government pursuant to paragraph 22 of Part of Part 1 of the Fourth Schedule to the Constitution.

Clause 38

142. Amend clause 38 by deleting the words “Director General” wherever it appears and replacing with the words “Cabinet Secretary” to read as follows:

38. (1) The Cabinet Secretary may, in consultation with the Council of Governors and on the recommendation of the Director-General, declare a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery—

(2) The Cabinet Secretary or County Executive Committee member as the case may be, shall—

Justification: This is a mandate of the Cabinet Secretary and not the Board of the Service as proposed in the Bill.

It is important to recognize the role of the County Governments in the management of the fisheries resources thus the introduction of the role of the County Director.

Committee Observation:

The amendment was adopted with necessary modifications it seeks to provide for declaration of designated fisheries to be by the Cabinet Secretary which is in line with role of the CS in declaration of designated fisheries in other provisions of the Act.

Clause 39

143. Amend clause 39(1) to read as follows:

39. (1) The Director-General in consultation with County Governments and in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary as the case may be, by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery—

Justification: To provide role of the County Governments in prescribing measures for conservation of inland fisheries.

Committee Observation:

The amendment was adopted as the imposition of fisheries management measures may affect functions of county government hence the need to consult before imposition of the same.

Clause 40

144. Amend clause 40 to read as follows:

40. (1) The Director-General or County Director may take fisheries management measures to limit fishing and fishing related activities in accordance with the

objective and principles of this Act and shall communicate such measures by notice in writing to the persons affected.

(2) A person aggrieved by the action taken by the Director-General or County Director pursuant to subsection (1) may appeal in writing to the Cabinet Secretary or County Executive Committee Member as the case may be.

Justification: To make provisions for the role of the County Governments, and specifically the role of the County Committee Member in charge of matters relating to Fisheries.

Committee Observation:

The amendment was not adopted as environmental conservation and management including sustainable use of resources is a function of National Government as per paragraph 22 of Part of Part 1 of the Fourth Schedule to the Constitution.

Clause 42

145. Amend clause 42(2)(c) to read as follows:

42(2)(c) make a full report of the incident and steps taken by him or her to the Director General or County Director as the case may be, at the earliest opportunity.

Justification: To provide for reporting to the County Director in charge of fisheries in cases of fisheries falling under the purview of the County Governments.

Committee Observation:

The amendment was not adopted as regulation by counties is with regards to recreational fishing vessels.

Clause 47

146. Amend clause 47(2) to read as follows:

47. (2) Where an application is made under subsection (1), the Director General shall refer the matter to the National Management Authority and respective County Executive Committee Member who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat and possible means of preventing or minimizing adverse impact.

Being in charge of and implementers of the fisheries function, it is important to provide for and require a Fisheries Impact Assessment Report from a concerned County Government before any activity is undertaken in any fisheries resource other than fishing.

Committee Observation:

The amendment is not adopted as the competent authority to undertake environmental impact assessment under Environmental Management and Co-ordination Act is NEMA and not a County Executive Committee Member.

Clause 48

147. Amend clauses 48(3) and (4) to read as follows;

48 (3) The Director- General or County Director as the case may be, may suspend or cancel the license of a vessel to which this section applies until such time as all fines, penalties and damages have been satisfied.

(4) Notwithstanding subsection (2), in the event of an accidental introduction into the Kenya fishery waters of any deleterious article or substance prohibited in subsection (1), or in the event of encountering such articles, the owner, operator or master of the vessel shall immediately report the incident to the Director-General or County Director giving the following information to the extent possible—

Justification: To recognize the role of the county governments in control of pollution in inland fisheries waters.

Committee Recommendation:

The amendment was not adopted as environmental conservation and management including sustainable use of resources is a function of National Government pursuant to paragraph 22 of Part of Part 1 of the Fourth Schedule to the Constitution.

Clause 50

148. Amend clause 50(1) to read as follows:

50. (1) The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by

the Board establish by a notice in the Gazette —

- (a) designated fishing ports, and
- (b) protected fish breeding grounds.

(1A) The County Executive Committee Member may, on recommendation of the County Director by a notice in a Gazette establish fish landing stations in their area of jurisdiction.

Justification: Based on their implementation powers as regards fisheries, counties are constitutionally enabled to establish fish landing stations as the situation or circumstances may warrant.

In addition, this proposal is anchored in Gazette Notice No. 116 of 9th August 2013 issued by the Transition Authority, which assigned the development and management of fish landing sites and jetties to County Governments.

Committee Observation:

The amendment was adopted with modification. The Committee was of the view consultation with the relevant county government before the Cabinet Secretary establishes of fish landing stations was important for fish landing stations. Noting in most instances management of the station will require collaboration with the county governments.

Clause 51

149. Amend clause 51 by adding the following:

51 (1) In addition to the information requirements specified in Part VIII, the Director-General or County Executive Committee Member may by notice in writing direct any person whom he is satisfied is suitably qualified to undertake the periodic stock assessment of all the fishery waters and collect and analyze statistical and other data and information on activities under the scope of this Act and forward the same to the Board.

Justification: It is important the law to recognize the fact that the county governments can also undertake stock assessment based on their own initiative or authority.

Committee Observation:

The amendment was not adopted fish stock assessment is primary a conservation role of the national government and also as result of international reporting obligations.

Clause 54

150. Amend clause 54(1) to read as follows:

54. (1A) No person shall move any live fish from one fishery to another without a movement permit from the respective County Government.

Justification: To provide for the regulation of movement of live fish by the County Governments within the country.

Committee Observation:

The provision relates to the export of fish and not movement of fish within Kenya and is misplaced. Hence the proposal was not adopted.

Clause 56

151. Amend clause 56 to read as follows:

56. The County Executive Committee Member may, in consultation with Fish Marketing Authority, for the purposes of promotion of fish production and marketing—

- (a) enter into arrangements and agreements with registered associations or institutions for the management development and administration of fisheries, and
- (b) facilitate the establishment of fish market management units and aquaculture production units.

Justification: We opine that fish production and marketing should be the role of the respective County Government in collaboration with the fish marketing authority.

Committee Observation:

The Fish Marketing Authority was deleted hence the proposal is not adopted.

Clause 57

152. Amend by deleting sub-clause 57(2) and amend sub-clause 57(3) to read as follows:

(3) The County Executive Committee Member shall —

- (a) monitor the production of fish products and fish feed with a view to assessing risks to humans;
- (b) regulate fish handling, landing, transportation, processing and marketing;
- (c) work in collaboration with other Government agencies in matters related to this section;
- (d) carry out inspection of operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary;
- (e) lay down all procedures to be followed for compliance with provisions under paragraph (f);
- (f) specify conditions for the placing on the market of fish, fish products and fish feed;
- (g) maintain a register of fishery enterprises in the county;
- (h) issue health certification of fish, fish products and fish feed subject to the consignment meeting set requirements;
- (i) perform such other functions as may be necessary or expedient for food safety conditions of fish products in accordance with this Act.

Justification: The Council of Governors (COG) strongly opposes the creation of a Standing Committee and a Technical Committee on Fish Quality and Safety, as it is our position that these functions rightfully fall under the mandate of County Governments.

The Constitution of Kenya and the devolved governance structure empower counties to manage local resources, including fisheries, and to ensure the quality and safety of fish products within their jurisdictions.

The establishment of such committees at the national level would undermine the authority and responsibilities of County Governments in this sector. County Governments are best positioned to understand and address the specific needs and challenges faced by their respective regions, including fish quality and safety concerns. We believe that further centralization of these functions would lead to duplication of efforts, inefficiencies, and unnecessary bureaucracy.

Committee Observation:

The amendment was not adopted as the provision relates to conservation and management which is a function of the National Government.

Clause 61

153. Amend clause 61 to read as follows:

61. (1) The Cabinet Secretary shall, in consultation with the Service and County Governments, prepare a national aquaculture development plan for promoting the sustainable development of aquaculture in Kenya in accordance with the principles and objectives of this Act.

(2) Any aquaculture development plan developed under subsection (1) shall be for duration of five years.

(4) The Cabinet Secretary shall publish the aquaculture development plan in the Gazette.

(5) Each County Government may develop a county aquaculture development plan taking into consideration the national development plan.

Justification: These should be the role of the Cabinet Secretary as opposed to the Director General and should be done in consultation with the County Governments.

Committee Observation:

The amendment was adopted as it seek to provide for the development of the national aquaculture development plan by the Cabinet Secretary in consultation with the County Governments and further provide for development county aquaculture development plan, noting that inland aquaculture is regulated by counties.

Clause 62

154. Amend to read as follows:

62. The Cabinet Secretary and County Governments shall, ensure that—

Justification: To align to our proposals above.

Committee Observation:

The technical body to undertake aquaculture development is the Service hence proposal is not adopted.

Clause 63

155. Amend clause 63 to read as follows:

63. (1) A person carrying out aquaculture activities, shall undertake Environment & Social Impact Assessment commencing the activities

Justification: To prescribe requirements for undertaking aquaculture activities including mandatory Environment & Social Impact Assessment.

Committee Observation:

The proposal is not adopted as the Bill already provides EIA to be undertaken for purposes of an aquaculture license under clause 87.

Clause 64

156. Amend clause 64(2) and (3) to read as follows:

64 (2) Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government, give notice in writing to the owner of the relevant waters requiring the destruction of all fish and fish products in the said waters or the taking of such other measures as the county government may specify in the notice.

(3) Every person who receives a notice under subsection (2) shall comply with its requirements at her own expense, and in default of such compliance, the county government may enter the relevant facility and take or cause to be taken such measures as may be necessary for complying with the requirements of the notice and any expenses incurred shall be recoverable as a civil debt from the person so notified.

Justification: To provide clarifications that this is the role of the respective county government.

Committee Observation:

The amendment was adopted as it provides for clarification on the role of enforcement which is by the respective county government. Under the Constitution functions of defunct local authorities was devolved to County Governments.

Clause 65

157. Amend to read as follows:

65. (1) No person shall, without written permission granted by the Director-General on the advice of the Board and respective County Government—

Justification: To provide for a process of involvement of the County Governments given that they are responsible for the respective fisheries.

Committee Observation:

The amendment was not adopted as the provision relates to the environmental protection role of the national government.

Clause 67

158. Amend clause 67(2) to read as follows:

67(2) Where any person fails or apparently fails to fulfil the conditions set out in subsection (1), the County Director, in consultation with the National Environmental Management Authority, may notify such person in writing of the requirement to take measures to restore the applicable area to such standard as the County Director may specify within a stated period of time, and may upon inspection require such person to redesign the applicable area.

(3) Each person who is notified by the County Director pursuant to subsection (2) shall promptly fulfil the requirements set out in the notification

Justification: To ensure clarity, it is recommended that the responsibility for managing aquaculture waste be explicitly assigned to the respective County Governments.

Committee Observation:

The amendment was not adopted as the provision relates to the environmental protection role of the national government.

Committee Recommendation:

Clause 68

159. Amend by deleting the words “Director General” and replacing with the words “County Director” whenever it appears in clause 68(3) and (4) to read as follows;

68(3) Each person engaged in commercial aquaculture in Kenya shall, within twelve hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which the person exercises management or control or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the County Director of the escape or damage, including the following—

(a) the species of fish affected;

(b) the date (or an estimate of the date) on which the escape or damage took place;

(c) the number and biomass (or an estimate of the number and biomass) of the fish that have escaped; and

(d) the age or developmental stage of the fish at the time of their escape and details of the circumstances in which the escape or damage took place, and, within seven days after becoming aware of such escape or damage, notify the County Director in writing of the action taken to deal with it.

Justification: The Council of Governors asserts that the regulation of fish escapements from aquaculture operations should be the responsibility of the respective County Governments.

County Governments are best positioned to manage and oversee local aquaculture activities, ensuring that any potential environmental impacts, including fish escapements, are effectively controlled in line with regional needs and conditions. This approach aligns with the principles of devolution, which emphasize local governance and management of natural resources.

Committee Observation:

The amendment was adopted as it seeks to provide for notification of escapement to the Director-General as well as the County Director in instances of escapement noting that regulation of commercial aquaculture is primarily by county governments.

Clause 69

160. Amend clause 69 to read as follows:

69. (1) No person shall use in a commercial aquaculture establishment any drug, pharmaceutical, antibiotic or other chemical for the treatment of fish diseases or for the enhancement of fish growth without the written approval of the County Director.

Justification: To align to the provisions of the Fourth Schedule to the Constitution which has devolved Agriculture including animal disease control; and fisheries are functions to counties.

Committee Observation:

The amendment was adopted to the provisions of the Fourth Schedule to the Constitution which has devolved agriculture including animal disease control; and fisheries are functions to counties.

Clause 73

161. Amend to read as follows:

73. (1) The Cabinet Secretary may, in consultation with County Governments, make regulations the better carrying out of the provisions of this Act.

Justification: To provide for a consultative process between the National and county governments in the regulatory making process.

Committee Observation:

The amendment was adopted to provide for a consultative process between the National and county governments in the regulatory making process,

Clause 74

162. Amend by introducing the words “or County Director” immediately after the words “Director General” whenever it appears to read as follows:

74.(1) The Director-General or County Director as the case may be, may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as the Director may specify—

Justification: To recognize the role of the County Director in requiring information under the Act.

Committee Observation:

The amendment was not adopted as the provision is sufficient.

Clause 79

163. Amend clause 79 to read as follows:

79. (1) No person carrying out duties or responsibilities under this Act shall, unless authorized or otherwise provided or directed in accordance with this Act, reveal information or other data of a confidential nature or designated as confidential in accordance with this Act, acquired by virtue of their said authority, duties and responsibilities to any person not having such authority or carrying out such duties and responsibilities.

(2) The Cabinet Secretary or County Executive Committee Member in consultation with the Director-General or County Director as the case may be, may designate any information as confidential, and in doing so may also exempt general summaries of aggregated information from confidentiality requirements.

(3) The Director-General or County Director may authorize in writing any person to—

Justification: To provide for the role of the County Governments in handling confidential information.

Committee Observation:

The amendment was adopted as it seeks to provide for the role of the County Governments in handling confidential information.

Clause 80

164. Insert New Clause

80(A) The County Director shall establish and maintain a County register of licenses and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary.

(2) The register established under subsection (1) shall include —

- (a) information on applications for licenses and authorizations under this Act;
- (b) information on each license and authorization issued, renewed, suspended or cancelled under this Act, including the activity, date and duration;
- (c) information on each licensed or authorized person;
- (d) information on the relevant vessel, facility, and/or licensed or authorized activity;
- (e) any record of non-compliance with the license or authorization;
- (f) any record of action taken as a result of non-compliance
- g) such other information that may be prescribed or required by the County Director.

Justification: County Governments also need to have in place a register of licenses and authorizations.

Committee Observation:

Amendment was adopted as it recognizes that County Governments also need to have in place a register of licenses and authorizations.

Clause 81

165. Amend clause 81 to read as follows:

81. The Director-General or County Director shall maintain and make publicly available a record of the outcome of any legal or administrative action taken in respect of any violation against this Act that results in a judgment or administrative determination.

Justification: To recognize the role of the County Director in managing information under the Act.

Committee Observation:

The amendment was adopted as it provides for the role of the County Director in providing information under the Act.

Clause 82

166. Amend to read as follows:

82. The Director-General and County Director shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with section 82.

Justification: To recognize the role of the County Director in managing information under the Act.

Committee Observation:

The amendment was adopted as it provides for the role of the County Director in providing information under the Act.

Clause 83

167. Amend clause 83(2) and (3) to read as follows:

83 (2) The respective county governments shall be responsible for issuing licenses with respect to —

- (a) using any vessel for recreational fishing in the Kenya fishery waters.
- (b) using an artisanal fishing vessel for commercial purposes;
- (c) commercial aquaculture; and
- (e) ornamental fishing

(3) The Cabinet Secretary shall in consultation with the Council of County Governors, prescribe the standards for the registration of vessels and grant, renewal and revocation of licenses by a county government under subsection (2).

Justification: The Constitution of Kenya, 2010, which assigns Counties responsibility for trade licenses, local economic development, trade regulation, and service delivery, including activities that take place within their territorial jurisdictions. In practical terms, recreational fishing, artisanal fishing, commercial aquaculture, and ornamental fishing are locally based activities that require day-to-day monitoring, community engagement, and enforcement, functions that can only be effectively performed by County Governments due to their proximity to fishers.

Committee Observation:

The amendment was not adopted further the Committee notes the need for clarification that registration is for fishing activities and not the vessel which are regulated under the Merchant Shipping Act.

Clause 84

168. Amend to read as follows:

84 (2) The Cabinet Secretary may after consultation with the respective County Government and by order published in the Gazette determine the quantity of fish which may be deemed to be fish for own consumption under subsection (1), and different quantities may be determined for different areas of Kenya.

Justification: To provide for a consultative process with the respective County Government.

Committee Observation:

The amendment is not adopted as fish for own consumption is under purview of the national government.

Clause 85

169. Amend to read as follows:

85 (3) The Director-General or County Director shall, in approving or renewing a license under subsection (1), act in accordance with the procedures required pursuant to this Act and such other transparent and accountable standards as may be determined and published.

Justification: There is need to provide for the County Director to be able to exercise similar powers at the county level.

Committee Observation:

The Bill already contains provisions for providing for authorization for county governments and the amendment is unnecessary.

Clause 92

170. Amend clause 92 by including the words “or County Government” immediately after the words “Director General” whenever it appears to read as follows:

92.(1) A license or authorization granted under this Act shall be subject to payment of—

(a) such license fee prescribed for that class of license as may be prescribed; and

(b) such other fees, charges or levies as are set out in this Act, or as may be prescribed or required by the Director-General or County Government by public notice

Justification: To recognize the role of the County Governments to charge fees and other charges in the fisheries sector.

Committee Observation:

The amendment was accepted as fees and charges may be imposed by Counties hence the need for the same to be published.

Clause 93

171. Amend to read as follows:

93. (1) The Director-General or County Director may, by written notice to the holder of a license or authorization or that person’s agent, suspend or cancel any license or authorization issued pursuant to this Act for any of the following reasons—

Justification: To provide for the role of the County Governments in suspension or cancellation of licenses.

Committee Observation:

The amendment is unnecessary already provided in other provisions.

Clause 96

172. Insert New Clause to read as follows:

An applicant for a license who is aggrieved by a decision not to grant or renew any license or authorization under this Act, or to a person who holds a license or authorization who is aggrieved by a decision to suspend or cancel such license or authorization may appeal to the County Directorate within thirty days of receiving notification of such decision, and may further appeal to the County Executive Committee Member within thirty days of receiving notification of the Directorate's decision.

Justification: To provide for the right of appeal at the county level.

Committee Observation:

The proposal was adopted to provide for appeal at the county level.

Clause 102

173. Amend to read as follows:

102. (1) No person shall use an artisanal fishing vessel for fishing in the Kenya fishery waters without—

(a) a valid and applicable registration number; and

(b) displaying such registration number in accordance with the requirements in such form as may be prescribed.

(2) The owner of each artisanal fishing vessel shall apply for a registration number on such form as may be prescribed or as the County Director may require

Justification: Registration of artisanal fishing vessels should be regulated by the respective County Governments.

Committee Observation:

The amendment was not accepted what ought to be regulated is artisanal fishing and not the vessel itself.

Clause 103

174. Amend to read as follows:

103 (7) In any judicial or administrative proceedings brought under this Act, the entry in respect of a vessel in the Register of Fishing Vessels, or any other register

maintained by the Director-General or County Director under this section, shall be prima face evidence of the ownership of the vessel.

Justification: Counties should as a matter of law and procedure put in place a register of vessels operating within their areas of domain.

Committee Observation:

The amendment is unnecessary as the provision is sufficient.

Clause 105

175. Amend to read as follows:

105. (1) Licenses issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—

(a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the County Director.

(b) on receipt of an application for registration of a recreational fishing vessel, the County Director shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the County Director shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and;

~~(c) such other requirements as may be prescribed or required by the County Director.~~

Justification: The Council of Governors maintains that the regulation of recreational fishing, including the registration of vessels used for such activities, should be undertaken by the respective County Governments. County Governments are better equipped to oversee and manage recreational fishing within their jurisdictions, ensuring compliance with local regulations and promoting sustainable use of aquatic resources. This responsibility aligns with the principles of devolution, allowing for effective governance and management at the local level.

Committee Observation:

The amendment was adopted with necessary modifications as recreational fishing is a function devolved to county governments hence requirements should be issued by the County Director.

Clause 107

176. Amend clause 107 to read as follows:

107. (1) No person shall deploy or maintain a fish aggregating device in the Kenya fishery waters except with the authorization by the Director-General and in accordance with such conditions as the Director-General may specify in consultation with the respective County Government or as are otherwise specified in this Act

Justification: To provide for consultation with the respective County Government

Committee Observation:

The provision relates to conservation which is a national government function hence not adopted.

Clause 108

177. Amend clause 108(2) to read as follows:

108 (2) Subject to subsection (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Director-General and in accordance with such conditions as he/she may specify.

(2A) The Director General shall consult the respective county government before issuing the permission stipulated under subsection 2.

Justification: To provide for consultation with the respective County Government

Committee Observation:

The provision relates to conservation which is a national government function hence not adopted.

Clause 111

178. Amend clause 111(1) to read as follows;

111. (1) Each license to operate a fish processing establishment shall be issued by the respective county government subject to the following conditions in addition to any other conditions required pursuant to this Act—

Justification: To clarify, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance of trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.

Committee Observation:

The amendment was adopted as it clarifies, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance of trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.

Clause 114

179. Amend to read as follows:

114 (1) For purposes of fishery conservation and management, the Director-General or County Director may require data returns from the sellers or buyers of such species during such periods including information relating to the -

(2) Any person to whom a request for data returns is made by the Director-General or County Director pursuant to subsection (1) shall promptly furnish such information.

Justification: To provide for the powers of the County Director to require for data as the circumstances may warrant or require.

Committee Observation:

The provision relates to conservation and management which is a national government function hence proposal is not adopted.

Clause 115

180. Amend clause 115(1) and (3) to read as follows:

115(1) No person shall establish or operate a commercial aquaculture establishment otherwise than under the authority of, and in accordance with the conditions of, an aquaculture license granted by the County Executive Committee Member under this Act.

(3) This section shall apply to such aquaculture establishments as the County Executive Committee Member may by notice in the Gazette, prescribe.

Justification: Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 116

181. Amend clause 116 to read as follows:

116. (1) The owner or lessee of an aquaculture establishment shall register such establishment with the County Executive Committee Member and shall, for the purposes of the registration, provide to the County Executive Committee Member —

(2) A person who is a buyer or transferee of an aquaculture establishment shall, within fourteen days after the sale or transfer, give notice of the sale or transfer to the County Executive Committee Member —.

Justification: Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 117

182. Amend clause 117 to read as follows:

117. (1) An application for an aquaculture permit shall be made to the County Executive Committee Member in the prescribed form.

(2) An aquaculture permit shall—

(a)...

(b) be subject to such conditions as appear to the County Executive Committee Member to be necessary or expedient for the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to—

(3) An aquaculture permit shall not be transferred without the prior written consent of the County Executive Committee Member.

(4) The County Executive Committee Member may approve the application subject to the applicant being granted, where applicable, an environment impact assessment license under the Environmental Management and Co-ordination Act, 1999.

Justification: Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 118

183. Amend clauses 118 by deleting the words “Director General” and replacing the words “County Executive Committee Member” whenever it appears to read as follows:

118. (1) An application for an aquaculture license shall be made to the County Executive Committee Member in such form as may be prescribed or required by the County Executive Committee Member and be accompanied by such documents and information as County Executive Committee Member may require, including proof that the applicant is legally entitled to use the land or other area designated as the proposed site.

(2) After receipt of an application pursuant to subsection (1), the County Executive Committee Member shall ensure that any relevant environmental standards for the proposed aquaculture project are being met, including requirements for siting, emissions and other relevant matters under the Environment Management and Coordination Act, determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project.

Justification: To align to our proposals above

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 121

184. Amend to read as follows:

121. (1) The period of validity of each commercial aquaculture license shall not exceed ten years, and shall be subject to a compliance review on an annual basis.

(2) The County Executive Committee Member may issue an aquaculture license subject to any conditions the County Executive Committee Member considers appropriate, including conditions relating to —

Justification: There is need to be clear that the aquaculture licenses shall be subject to compliance review annually, over the license period.

Committee Observation:

The provision contemplates review by virtue of subjecting the license to annual renewal and the amendment is unnecessary.

Clause 143

185. Amend to read as follows:

143 (3) Anything seized pursuant to subsection (1) shall be delivered into the custody of the Director-General or County Director.

Justification: To provide for the powers of the County Director as regards seizures.

Committee Observation:

The seizure of vessels is a national government function in accordance with Paragraph 18 of Part 1 of the Fourth Schedule to the Constitution. Hence the proposal is not adopted.

Clause 147

186. Amend to read as follows:

147(1)(b) observers for purposes of the observer programme established under section 147, in accordance with such standards and procedures as may be prescribed or approved by the Board or the County Director.

Justification: To provide for the powers of the County Director as regards the appointment of and identification by inspectors and observers.

Committee Observation:

Appointment of inspectors and observers is a national government function in accordance with Paragraph 18 of Part 1 of the Fourth Schedule to the Constitution. Hence the proposal is not adopted.

Clause 153

187. Amend to read as follows:

153 (1) No liability shall attach to the Service or the County Government and their officers, employees or other persons acting under the authority of the Service or County Government, including persons with delegated authority and any person assisting an authorized officer pursuant to section 19, for any damage sustained by any person as a result of any act or omission done or made in good faith in performance of their duties under this Act or any other law relating to fisheries.

Justification: Provide for similar powers of the County Governments at the county level.

Committee Observation:

The amendment was adopted to provide for protection from liability for County Government officers undertaking duties in accordance with the Act.

Clause 154

188. Amend to read as follows:

154. The Service or County Government shall ensure full group insurance coverage for all authorized persons.

Justification: Provide for similar powers of the County Governments at the county level.

Committee Observation:

The amendment was adopted to provide for insurance for County Government authorized officers.

Clause 166

189. Amend to read as follows:

166. (1) Any fish or fish products seized by an authorized officer under this Act may, at the direction of the Director-General or County Director, be sold and the proceeds of the sale held and dealt with pursuant to this Act.

Justification: Provide for the powers of the County Director to exercise similar powers but at the county level.

Committee Observation:

The amendment was adopted.

Clause 200

190. Amend to read as follows:

200. The functions of the Fish Marketing Authority, in collaboration with the County Governments, shall be to;

Justification: It is legally prudent and justifiable for the Fish Marketing Authority to collaborate with the County Governments in the exercise of its functions.

Committee Observation:

The amendment was not adopted as provisions on the Fish Marketing Authority have been deleted.

Clause 201

191. Amend to read as follows:

201(1)(f). There shall be a Board of Directors of the Fish Marketing Authority which shall consist of - two persons, who have knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;

Justification: For fairness in representation and also taking into account the place and position of County Government in matters relating to fisheries, it is important that the number of representatives from the Council of Governors be enhanced to two.

201 (6) The members of the Board of Directors shall be paid remuneration and allowances determined by the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission.

Justification: Remuneration is a constitutional function of the Salaries and Remuneration Commission.

Committee Observation:

The amendment was not adopted as provisions on the Fish Marketing Authority have been deleted.

Clause 208

192. Amend to read as follows:

208. The Cabinet Secretary, in consultation with the County Governments, may make regulations for the better carrying into effect of the provisions of this Act.

Justification: The involvement of the County Government in the formulation of the regulations shall go a long way in the implementation of the Act including the realization of its objectives being that fisheries is a devolved function.

Committee Observation:

The Statutory Instruments Act require for public participation and consultation with relevant stakeholders in the formulation of all regulations. Hence the amendment is unnecessary.

3.4. Submission of Memoranda from the Public Hearings

3.4.1 Mombasa County

The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Mombasa County on Monday, 1st September, 2025, at the Kenya Marine and Fisheries Research Institute (KEMFRI). During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

193. A section of the public were concerned about the limited time allocated to review the Bill, noting that the period was insufficient for meaningful participation. Moreover, they observed that the Bill was extensive and required careful study and consultation, and therefore urged that the submission period be extended to allow for inclusive and informed contributions. In addition, some members of the public proposed that Persons with Disabilities (PWDs), particularly those who are blind, be provided with the Bill in Braille format. They emphasized that this measure would promote inclusivity and ensure that all citizens are able to effectively participate in the legislative process.
194. Furthermore, some fisher-folks raised concern that Illegal, Unreported, and Unregulated (IUU) fishing had caused significant harm to the county by depleting fish stocks and threatening the livelihoods of local fishermen. They emphasized the need for fishermen to be sensitized on the appropriate fishing nets to use in order to promote sustainable fishing practices. In the same breath, it was proposed that the distribution of fishing nets be centralized through KEMFRI or any other designated government institution to ensure standardization and to avoid unnecessary conflicts with other relevant authorities.
195. Similarly, some members of the public expressed concern over port expansion activities, noting that waste from the port was being disposed of in areas where fishing takes place. They observed that this practice was causing serious harm to fish breeding zones and

threatening the sustainability of marine resources. Consequently, they called for deliberate measures to protect breeding areas by preventing the port from engaging in such harmful disposal practices. At the same time, they sought empowerment through the provision of larger boats to enable them to engage in deep-sea fishing. They noted that access to bigger vessels would expand fishing opportunities and enhance their economic livelihoods.

196. Moreover, a section of the public suggested that training on the correct fishing nets and sustainable practices should be provided prior to the issuance of licenses to ensure that all licensed fishermen are adequately equipped with the necessary knowledge and skills to promote responsible fishing. In addition, they expressed that PWDs should not be licensed in any fisheries-related activities. They argued that exempting them from licensing would promote inclusivity and remove barriers that could limit their effective participation in the sector.
197. Likewise, some members of the public proposed that the law provide guidance on the appropriate nets to be used, noting that currently it only outlines prohibited nets without offering direction on acceptable ones. They emphasized that nets used to catch fish species that mature without growing to a large size should not be classified as illegal. They further proposed that fishers be clearly advised on the appropriate nets to use for such species to ensure compliance and sustainable fishing.
198. In the same way, they urged consideration for poor and illiterate fisher-folks, noting that some languages used in the law are not easily understandable to them. They emphasized the need for civic education to be conducted in simple and accessible terms to empower them and enable them engage in legal and sustainable fishing.
199. Furthermore, the participants unanimously proposed adoption of a single regulated license that would allow local fisher-folks to operate freely across counties without the requirement of obtaining multiple licenses to ease compliance and reduce unnecessary costs. They noted that Kenyan waters belong to all and should not be subjected to restrictive county-based licensing systems. In addition, it was recommended the deployment of qualified staff with adequate knowledge and expertise in fisheries to relevant offices in order to support informed decision-making. They emphasized that individuals without a background in fisheries should not be employed in such positions, as it undermines effective sector management.
200. A section of members of the public proposed that fish vendors should not be required to pay for permits for the distribution of fish in every county. They argued that such charges restricted free movement and contributed to higher fish prices in the marketplace, thereby burdening both traders and consumers. Equally, they raised concern over the absence of landing sites in Mombasa County, attributing the challenge to the lack of title deeds or allotment letters, which has made development difficult. They noted that out of fifteen registered Beach Management Units (BMUs), only one has an established landing site.

201. In addition, some members of the public raised concern over the lack of public participation in the decision to increase the license fee from 200 shillings to 560 shillings. They argued that the increment was imposed without adequate consultation and therefore requested that the fee be retained at 200 shillings. Similarly, participants observed that leaders of BMUs, though elected in accordance with the law, do not receive salaries, which has led to laxity in implementation of their roles. They suggested that the chairpersons and other office bearers be considered for remuneration and that budgetary allocations be made to support their work.
202. Some members of the public suggested that the identification of areas for mangrove planting, especially in relation to fish breeding sites, should be done in consultation with BMUs, as they know the best places for such initiatives. They emphasized that this would help safeguard breeding grounds and promote sustainable fisheries. Additionally, they called for an audit of grants issued in the fisheries sector, noting concerns that funds were being misappropriated. They emphasized that proper accountability measures were necessary to ensure the resources benefit the intended beneficiaries.
203. Furthermore, some members of the public proposed that BMUs be actively involved in the making of bylaws as such inclusion would ensure that they are practical, locally relevant, and supported by the fishing communities. Further, they noted that the proposed regulations be issued to BMUs in good time to allow for adequate deliberations with their members and the wider public as early access would promote proper understanding and effective participation in the implementation process. Moreover, they argued that the ministries should hold their own public participation forums to help the public fully understand proposed policies before they are sent to the National Assembly.
204. In addition, participants emphasized the need for clear procedures on how the Kenya Marine Fisheries and Socio-Economic Development (KEMFSED) grant is being disbursed. They noted that since the grant is taxpayers' money, there should be transparency and accountability in its management to ensure it benefit the intended beneficiaries. . Additionally, they called for an audit on the grant noting concerns that funds were being misappropriated. They further proposed that civic education be conducted for BMUs to guide them on the procedures for accessing and utilizing the grant effectively.
205. Similarly, some members of the public observed that the law should clearly specify whether subsistence fishing is to be conducted offshore or inshore to prevent unnecessary arrests. In addition, some members of the public called for strict implementation of inspection on foreign vessels, noting that the process is currently not properly carried out. They observed that many foreign vessels operate without a representative from the Kenyan government on board, a gap that has contributed to IUU fishing. They emphasized that ensuring government presence and thorough inspections would strengthen oversight.

206. Likewise, some members of the public urged the government to clearly define the end goal of the training being offered in the fisheries sector to ensure that citizens who undergo the training are able to secure meaningful employment and apply their skill productively. They further recommended investment in government-owned ships to accommodate all trained fisher-folks and to support the growth and sustainability of the fishing industry in Kenya.
207. Further, they proposed that the government consider incorporating International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel (STCW-F) courses, noting that the current International Convention on Standards of Training, Certification, and Watch-keeping for Seafarers (STCW) course only covers sea safety and does not address fishing. They observed that without the STCW-F component, trained persons are unable to secure employment until they fully complete the course, which delays their opportunities to work in the sector.
208. Additionally, some members of the public raised concern that certain commercial fishing vessels use dragged nets which destroy marine resources by catching even fish eggs, thereby interfering with breeding. They observed that despite this harmful practice, such vessels continued to be issued with licenses, and they called for stricter regulation to protect fish breeding grounds. They also proposed that legal fishing gears be subsidized to empower fisher-folk and make them more accessible. They further emphasized that the gears should come with clear user guidelines to ensure proper utilization and promote sustainable fishing practices.

3.4.2 Kwale County

The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Kwale County on Tuesday, 2nd September, 2025, at Kwale Cultural Center. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

209. Members of the public proposed that the Fisheries Management and Development Bill should focus on strengthening the livelihoods of local fishers. They emphasized the need to include compensation mechanisms for damages or loss of life that may occur due to marine accidents, noting that fishing often exposes communities to high risks.
210. The public also highlighted the importance of empowering BMUs. They suggested that BMUs be granted more legal recognition and decision-making powers to enable them to co-manage fisheries alongside county and national authorities. This, they argued, would improve accountability and ensure sustainable fisheries management.
211. Further, the public called for improvement of infrastructure and market access. They recommended that transport links and market infrastructure be enhanced to allow fishermen to sell their catch directly. This would cut out exploitative middlemen and improve earnings for local communities. They further proposed the establishment of fish

processing and packaging hubs, particularly in the coastal region, to promote value addition and exports.

212. On education and capacity building, members of the public suggested that scholarships or bursaries be introduced for coastal youth to pursue studies in marine sciences and blue economy courses. They noted that this would build local expertise, create opportunities for young people, and strengthen the sector's long-term sustainability.
213. A section of the participants proposed that the Bill be interpreted into Kiswahili so as to make it more accessible to the wider public, and they further suggested that adequate time be provided for reading and understanding the document in order to enable meaningful and knowledge-based discussions during public participation.
214. Further, participants noted that Vanga, which borders Tanzania, has become a hotspot where Kenyan fishermen are often harassed, arrested, and compelled to pay huge fines to Tanzanian authorities on claims that they are fishing within Tanzanian waters. Therefore, they requested that clear boundaries be established to resolve this issue and protect local fishermen from such challenges.
215. Some participants observed that although the powers to designate marine managed areas are given to Beach Management Units (BMUs), public participation is necessary before such areas are set aside; consequently, they requested that this requirement be included in the Bill to provide BMUs with the legal backing to implement it effectively.
216. A section of the public stated that protection of marine resources cannot be carried out by government officials alone, and they therefore proposed that one representative from the BMU be included in the patrol boats to support enforcement efforts and help prevent corruption.
217. In addition, participants expressed concern that large areas have been designated as marine parks and reserves, which has forced fishers to cross into Tanzanian waters where they face arrests and heavy fines; as a result, they requested that the size of marine parks and reserves be reduced to increase the available fishing areas for local communities.
218. Similarly, a section of the public noted that some designated landing site areas have been replaced by houses, with individuals claiming ownership of the land, and they requested that the authorities verify the officially gazetted landing site areas, reclaim them, and hand them back to the BMUs for proper use in supporting fisheries activities. They further emphasized that proper title deeds should be produced to secure these areas and prevent future encroachment, and that clear boundaries of 60 meters from the highest water mark be set aside and protected for landing sites.
219. Participants raised concern that politicians have infiltrated BMUs, noting that some boats are owned and controlled by them, and they further observed that they interfere when individuals are arrested for illegal fishing practices. The participants requested that BMU leadership be respected and allowed to enforce the law and carry out their work effectively, since political interference has created conflicts of interest and undermined the primary role of BMUs in managing fisheries resources for the benefit of local communities.

220. Additionally, a section of the participants raised concern that stone and sand harvesting by leaders and companies destroys fish habitats, reduces fish populations, and causes health hazards from dust, and they noted that citizens are punished for the same practices while leaders are not, creating injustice. They therefore called for accountability, environmental protection, and community safeguards.
221. Participants further raised concern that emergency response to save fishermen in the ocean often takes too long, thereby leading to preventable deaths. They further noted that when bodies are found, they are sometimes left in the waters out of fear, as those who retrieve them are often blamed and subjected to lengthy investigations, and this, they emphasized, discourages people from offering timely help in such situations.
222. Furthermore, participants unanimously proposed the adoption of a single regulated license that would allow local fisher-folks to operate freely across counties without the need to obtain multiple licenses, and they emphasized that this would ease compliance and significantly reduce unnecessary costs.
223. They further noted that while the national government provides support to BMUs, information on the progress and nature of this assistance is often scarce; hence, they proposed that clear and timely information be shared with BMUs before such interventions are brought in, to ensure transparency and proper preparedness.
224. Participants raised concern that access roads to landing sites have been blocked, making fishing activities difficult. They proposed that these roads be reopened and widened to facilitate smooth operations for fishermen.
225. Participants noted that BMU leadership is currently limited to only two terms in office and requested that the term limit be increased. Moreover, they proposed that BMU leaders be provided with a stipend or budgeted salaries to support them in carrying out their responsibilities effectively.
226. Participants highlighted that there was widespread confusion regarding ocean management, noting overlaps in roles among different authorities and a lack of clarity on who holds responsibility for specific functions. Consequently, they emphasized the need for clear guidelines and coordination to streamline management and avoid conflicts.
227. Participants observed that inlets and outlets have become shallow, causing difficulties for fishermen who are not well conversant with the routes and sometimes leading them to get lost, and they therefore requested that the channels be rectified to enable boats to move in and out of the ocean effectively.
228. Likewise, some members of the public proposed that the law provide guidance on the appropriate nets to be used, noting that currently it only outlines prohibited nets without offering direction on acceptable ones. They emphasized that nets used to catch fish species that mature without growing to a large size should not be classified as illegal, and they

further proposed that fishers be clearly advised on the appropriate nets to use for such species to ensure compliance and sustainable fishing.

229. Participants proposed that inclusion of a specific position for Persons with Disabilities (PWDs) within BMU leadership structures should be considered, as this would strengthen inclusivity, ensure that the voices and interests of PWDs are adequately represented in decision-making, and guarantee that their concerns are considered in fisheries management.
230. Participants raised concern that fishers using ring nets have begun fishing in areas where they are not allowed, making it difficult for small-scale fishers to access fish. They proposed that clear boundaries be established and both groups be guided on where to fish in order to prevent conflicts and promote fairness.
231. A section of the public proposed that fisheries management be fully devolved to county governments, noting that in some cases fishers are required to report to the Director General based in Nairobi despite the presence of county governments. They observed that the current system, where powers flow from the Director General down to the counties, creates unnecessary bureaucracy and hardship; hence, they recommended that counties be given direct authority to manage fisheries for more efficient service delivery.
232. They further expressed concern that the license fee had been increased from 200 shillings to 560 shillings without public participation, and they noted that the new cost is not affordable to small fisher-folks. They called for the fee to be reviewed.
233. In addition, they proposed that waterproof licenses be introduced, noting that the current paper licenses get wet and tear easily when exposed to water, and they suggested that durable card-based licenses be considered to address this challenge.

Memorandum: Kwale Youth Assembly

Mr. Omar Salim Mbwana, president of Kwale youth assembly, presented a memorandum on 2nd September, 2025 at Kwale Cultural Center to the Committee on behalf of the youth as follows;

234. The youth representatives from Kwale County expressed their appreciation for the opportunity to present their views on the Fisheries Management and Development Bill, 2023. They observed that fisheries remain a lifeline for coastal communities as they provide livelihoods, food security, and employment to thousands of households. They further noted that in Kwale County, fishing, together with aquaculture, seaweed farming, and related marine activities, forms an integral part of the Blue Economy. They emphasized that their memorandum was intended to set out key recommendations to strengthen sustainable fisheries management, empower local communities, and support inclusive economic growth.
235. The youth representatives were of the view that artisanal and small-scale fishers, being the most vulnerable to the pressures of large-scale commercial operations, ought to be recognized and protected. They proposed the establishment of clear fishing zones and

licensing regulations to safeguard artisanal fishers from displacement by industrial trawlers. They further observed that local fishers would benefit from targeted support programmes such as credit facilities, provision of equipment, and safety gear to enable them to modernize their operations.

236. On matters of youth empowerment, they recommended the establishment of a Youth Fisheries and Aquaculture Fund to support startups and innovations in seaweed farming, fish processing, and value addition. They were of the view that digital solutions should be promoted to improve market access, pricing transparency, and skills training. They further suggested that fisheries be integrated into TVET curricula so as to equip young people with practical and market-ready skills.
 237. On the issue of sustainability, they stressed the importance of strengthening enforcement against Illegal, Unreported, and Unregulated (IUU) fishing, particularly by foreign fleets. They underscored the need to support community-led marine conservation initiatives such as mangrove restoration, marine protected areas, and coral reef rehabilitation. They further recommended that climate adaptation measures be incorporated to safeguard coastal communities from the adverse impacts of rising sea levels, cyclones, and shifting fish stocks.
 238. The youth representatives were also of the view that the roles and responsibilities of county governments in fisheries management ought to be clearly defined in line with the Constitution. They proposed that adequate resources be allocated to counties for landing sites, fish markets, and enforcement at the local level. They further called for stronger mechanisms of joint planning and coordination between the national and county governments.
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239. On matters of infrastructure and market development, they recommended increased investment in modern landing sites, cold storage facilities, and processing plants in Kwale and other coastal counties. They were of the view that value addition, including filleting, packaging, fishmeal, ornamental fish, and seaweed products, should be promoted in order to increase earnings. They further emphasized the importance of strengthening market linkages to regional and international markets while at the same time safeguarding local food security.
 240. They also recognized the vital role of women in fisheries, particularly in post-harvest handling, trading, and value addition. They called for deliberate measures to ensure that women and marginalized groups have equal access to financing, equipment, and training opportunities.
 241. In conclusion, the youth representatives commended the National Assembly for initiating the Fisheries Management and Development Bill, 2023, and acknowledged the effort being made to modernize Kenya's fisheries governance. They emphasized that for the Bill to succeed, it must prioritize sustainability, devolution, youth employment, and the empowerment of small-scale fishers and women. They therefore respectfully urged the

Committee to take into account their recommendations so that fisheries may continue to serve as a sustainable source of livelihoods, food security, and national economic growth.

Memorandum: Kwale - Community Action for Nature Conservation (CANCO)

Community Action for Nature Conservation (CANCO), a community organization based in Kwale County appeared before the Committee and submitted as follows:

Part I – Preliminary (Clause 2)

242. Regarding the definition of “Beach Management Units”, they observed that an important category was missing - seaweed farmers. They further observed that the word “traditionally” should be replaced with “primarily.” It was therefore their Recommendation that Section 2 be redefined as follows:

“An organization of fishers, fish traders, boat owners, seaweed farmers, fish farmers, and other stakeholders who primarily depend on fisheries activities for their livelihoods.”

243. Regarding the definition “Buyer”, they observed that the definition in the bill - “means any person who buys.” They noted that the remarks are too general and miss the fisheries context. They therefore recommended that the definition be amended to read: “Any person who buys fish and fish products.”

244. Regarding the definition “Fish Landing Station”, they observed that it was defined as a point designated by the Director-General (DG). They noted that since the County Executive Committee Member (CECM) establishes BMUs, he/she understands the landing sites. This role should not be reserved for Director General. Section 36 (1) already gives counties this mandate. They therefore recommended that this definition be amended to read:

“...a point on the shore of any waters or coastline of which the County Executive Committee Member in charge of fisheries, has by notice in the Gazette designated as a point to land fish.”

245. On the definition “Fisheries Officers”, they observed that it has been defined as Director General and Kenya Fisheries Service employees. They further observed that County fisheries officers are excluded in the definition. They therefore recommended that it be define as:

“The Director and any person in the public service of or above the rank of Assistant Fisheries Officer.”

246. On the definition of “Kenya Fishing Vessel”, they observed that the Current definition uses “traditionally. It is their view that the word be replaced with “primarily”. They therefore recommended that the definition should read as:

“- means a fishing vessel which is registered under the Merchant Shipping Act, and does not hold any other registration, or is wholly Owned and crewed by residents of Kenya or

by other persons gazetted by the Service as persons who primarily fish in Kenya fishery waters, and which meets such other conditions as may be prescribed

247. On the definition of “Fish”, they observed that it has been defined broadly to include any aquatic plant or animal. It is their view that marine plants should be specific as general wording creates confusion e.g., mangroves. They therefore recommended that the definition be refined to specify marine/aquatic plants relevant to fisheries.

Part III – The Kenya Fisheries Service (Section 8)

248. On subsection (e) it was their view that basic education/ public awareness be provided. They recommended that the National Government should build capacity and provide technical assistance to counties. Counties should extend this to communities. (Refer to Gazette notice 2024). They further recommended that this subsection be amended to read:

“Provide education to create public awareness and support for fisheries conservation, management, development, and sustainable use, and provide technical assistance to county fisheries departments.”

249. On function (h): It was their view that the current subsection overlaps functions. They therefore recommended that the National government should develop a national fish information system, while counties collect and share fish statistics.

Part V - Fisheries Conservation, Management and Development

250. On Clause 39 (1) they observed that the Director General may impose conservation measures. This omits the county role, despite counties signing management plans. They therefore recommended an amendment to the section as follows:

“The Director General in collaboration with the county governments, shall, in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery.

Clause 41

251. Clause 41 (ii): they noted that the Section is unclear on whether spear guns are legal or illegal. They therefore recommended of legality in the regulations.

252. Clause 42 (2c) regarding reporting vessel entanglement, it is their view that this section should involve county directors for artisanal vessels. They therefore recommended that the Section be amended to: “...Where an artisanal vessel becomes entangled with fixed fishing gear or other objects referred to in subsection (1), the master shall make a full report of the incident and steps taken by him or her to the Director-General through the County Director at the earliest opportunity

253. Clause 46 (1) regarding declaration of MPAs, it is their view that the use of “may” weakens intent and therefore recommended that “may” to be replaced with “shall” as follows:

“The Cabinet Secretary shall, in consultation with the Kenya Fisheries Advisory Council, stakeholders, and the Board, by notice in the Gazette, declare any area of the Kenya

fishery waters to be a Marine Protected Area and shall, as part of such declaration, identify its components, including the following”

254. Clause 49 (1) regarding the establishment of fish landing stations, ports, breeding grounds, the landing stations fall under county mandate. They recommended the omission of (a) fish landing stations as follows:

The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette (a) designated fishing ports, and (b) protected fish breeding grounds.

Part VIII - Aquaculture (Clause 64)

255. They observed that the roles of National vs County governments are not clearly demarcated. (Refer to Gazette notice, 2024). They therefore recommended that County Governments should implement, promote, and regulate aquaculture and mariculture.

Part IX - Information, Data and Records (Clause 80)

256. They observed that the Director General is solely responsible for the license register. It is their view that Counties should access the register.

Part X - Licensing and Registration

257. In Clause 83 (1) it is their view that reference to artisanal fishing vessels under national licensing be omitted.

258. In Clause 83 (2): it is their view that Counties should issue licenses not only for recreational fishing, but also for artisanal fishing, artisanal vessels, and small-scale aquaculture and/or mariculture. (Refer to gazette notice 2024 where counties have been mandated to limit access to fishing, and this can be through licensing)

259. In Clause 102 (2): it is their view that vessel registration applications should be in consultation with the counties

260. In Clause 105: it is their view that recreational vessel registration and licensing should be a fully county function (Refer to section 83 (2)) as follows;

a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the Director General in consultation with the relevant county government

b) On receipt of an application for registration of a recreational fishing vessel the county government shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the county government shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration.

261. Clause 117 (1): it is their view that aquaculture permits should be applied through counties as a fully devolved function. Amendments to be made from section 115 to section 122

Part VIII - Monitoring, Control and Surveillance (Clause 156)

They observed that on section 156(3) which states that “the operator of each fishing vessel shall comply with all license conditions and requirements imposed pursuant to subsection (2)”. Wording too broad. It was their recommendation that this should specify applicability only to semi-industrial and industrial fishing vessels to read as follows:

“The operator of each semi-industrial and industrial fishing vessel shall comply with all license conditions and requirements imposed pursuant to subsection (2)”

3.4.3 Kilifi County

The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Kilifi County on Wednesday, 3rd September, 2025, at Jawaba Hall. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

262. Participants raised concern that the Bill re-introduced issues which had previously led fishermen to go to court and halt its implementation. They opposed the ban on monofilament nets, noting that fishermen cannot afford larger nets and that such a ban would threaten their livelihoods.

263. In addition, they raised concern that octopus fishing, which traditionally uses fishing guns, has been banned by the Bill. They observed that these methods have been used for many years without causing harm. They opposed the proposed ban and requested that the use of traditional methods be allowed to continue.

264. It was proposed that the size of ring nets should not be reduced. They explained that when the size is reduced, it takes longer to remove fish from the nets, which can lead to spoilage and losses for fishermen. Further, they expressed concern that licenses should not be carried in the ocean since the current paper ones risk getting wet and tearing, unless waterproof cards are provided. In addition, they emphasized that one regulated license should be encouraged to ease compliance and reduce unnecessary costs.

265. A section of the participants raised concern that only 2-meter boats are allowed into the ocean, questioning how the length of a boat affects fishing. They proposed that small-scale fishermen be allowed to use smaller boats and emphasized that fishermen should be given the freedom to fish using boats they understand and can operate better. They also noted that access roads to landing sites have been blocked and, in some cases, grabbed. They requested that these roads be reclaimed, reopened, and protected to ensure smooth access for fishermen.

266. Participants also raised concern that the KEMFSED grant was being given to non-fishing communities, including women groups not involved in fishing, which they felt undermines

the fishing sector. They further observed that no scholarships are provided to support fisher folk or their families. Therefore, they proposed that KEMFSED publish a clear list of beneficiaries to enhance transparency and accountability.

267. In addition, some members of the public raised concern over the lack of public participation in the decision to increase the license fee from 200 shillings to 560 shillings. They argued that the increment was imposed without adequate consultation and therefore requested that the fee be retained at 200 shillings.
268. They further noted that there is no coordination with county governments since the Director General is the only person with authority to issue licenses. They therefore proposed that the DG's powers be reduced and that fisheries management be devolved to county governments. In addition, they rejected the proposal to measure the amount of fish to be caught for subsistence use, noting that some fishermen have large families and such restrictions would be unfair.
269. Participants proposed that adequate time be given to read and understand the Bill, noting that most people in Kilifi speak Kiswahili while the Bill is written in English. They therefore recommended that future Bills be translated into Kiswahili to promote inclusivity and meaningful participation.
270. In addition, they observed that the Bill generalizes fishing vessels without providing clear categorization. They proposed that the law specify the different types of ships, their measures, and their intended uses to avoid ambiguity and enhance proper regulation.
271. In the same breath, they raised concern that disaster management response was slow, leading to unnecessary deaths that could have been prevented with timely action. They therefore proposed that only qualified and skilled workers be allowed to work in the waters to enhance safety and effective response.
272. Participants observed that the issuance of licenses takes too long, preventing fishermen, who have dependents to support, from going into the ocean to fish during the waiting period. They proposed that license issuance be expedited to avoid disrupting livelihoods.
273. Furthermore, they expressed concern over the proposed merging of entities like Fish Levy Trust Fund, Kenya Fish Marketing Authority (KFMA) and Kenya Fish Industry Cooperation (KFIC) questioning where current employees would go and noting that such mergers may not create new opportunities for the youth. They emphasized the need for clarity on job security and employment creation
274. Participants sought clarity on the definition of a fisheries officer, noting that the Bill categorizes both county and state departments but does not specify where they fall within the definition. They therefore requested that this be clearly outlined to avoid confusion and proposed that the Kenya Fisheries Advisory Council include representatives from BMUs, noting that their involvement would ensure grassroots perspectives are considered in decision-making.

275. Participants proposed that compensation be provided to the families of fishermen who die while fishing, noting that this would help support their dependents and cushion the affected households from hardship. They further proposed that coxswain (coffers) training for coastal region fishermen should be conducted in the Indian Ocean rather than in Lake Victoria, since the conditions and fishing environments are not the same. They emphasized that this would make the training more practical and relevant for coastal fishermen.

Memorandum: Kilifi BMU

Captain Shillo Issa presented a memorandum on behalf of Kilifi local fishing community groups from Kilifi County regarding the Fisheries Management and Development Bill, 2023 as follows;

276. The memorandum reflected the sentiments of their local communities, who rely on fishing as a primary source of livelihood and cultural heritage. Further, they expressed concern that the proposed Bill granted immense powers to the Director General of Fisheries, which they believed undermined the constitutional principle of devolution.
277. They observed that under the current legal framework, fisheries services are a devolved function under the Fourth Schedule of the Constitution, and therefore, the role of County Governments must be clearly defined and respected within the proposed Bill. They strongly recommended that the powers granted to the Director General should be shared with and, where necessary, delegated to County Governments, particularly regarding the management of local inland and coastal fisheries. They further noted that County Governments should be allowed to play a leading role in monitoring, licensing, and enforcing fishing regulations within their jurisdictions.
278. In addition, they acknowledged the critical role of the National Government in managing international fisheries and overseeing compliance with regional and global agreements. However, they emphasized that this role must not override or duplicate the functions already assigned to County Governments. They recommended that the National Government should focus on international and deep-sea fisheries while providing technical and financial support to counties for the management of local fisheries. They further proposed that coordination mechanisms be established to ensure harmonized policies between the two levels of government without creating conflicts or overlapping mandates.
279. They raised concern that local fishing communities, who are the primary stakeholders, had not been meaningfully involved in the drafting of the legislation. They reminded the Committee that participation of local communities is a constitutional right under Articles 10 and 118 of the Constitution. They therefore requested that the process be made inclusive and participatory, with adequate opportunities for public consultation, especially in fishing communities. They added that stakeholder forums should be held in each county affected by the proposed law so as to collect views and incorporate them into the final draft.
280. Due to the complex nature of the proposed Act and its potential implications, they respectfully requested that more time be granted for thorough review by community members, county officials, and other relevant stakeholders. They further recommended that

a structured timeline for engagement be developed to allow for feedback and recommendations to be submitted meaningfully.

281. In conclusion, they submitted the following key recommendations;
- i. They called for the proposed Bill to be amended so as to recognize and strengthen the role of County Governments in local fisheries management.
 - ii. The scope of the Director General's powers be clearly defined to ensure they do not override devolved functions.
 - iii. The rights and livelihoods of local fishing communities be recognized and protected.
 - iv. The public participation period be extended and localized consultative forums be organized.
 - v. Regulations be collaboratively drafted to reflect the unique needs of both national and county levels of governance.
282. They expressed appreciation for the opportunity to share their views and affirmed their commitment to engaging constructively in the development of a fisheries law that would be inclusive, fair, and effective.

3.4.4 Lamu County

Memorandum: Shela BMU Co-operative Society Limited

Shela BMU Co-operative Society Limited submitted a memorandum to the Standing Committee on Blue Economy Water and Irrigation on Wednesday, 3rd September, 2025 regarding the Fisheries Management and Development Bill, 2023 as follows;

283. They noted that while they appreciated the government's effort to modernize and regulate fisheries, they strongly opposed Section 41(1)(e), which prohibits the use of monofilament nets, and Section 41(1)(i), which prohibits the use of beach seines. They explained that these provisions, if passed, would directly affect their livelihoods, culture, and food security. They therefore requested that both clauses be removed from the Bill in their entirety.
284. Further, emphasized that fishing in Malindi is not only an economic activity but also a cultural tradition that has existed for centuries. They observed that local communities initially relied on artisanal gear such as woven nets, hand lines, traps, and spears. Over time, as populations grew and markets expanded, they adopted modern gear like monofilament nets and beach seines, which provided efficiency and affordability. They added that for decades, beach seines had been used along the shores of Kilifi County to catch small fish species that remain vital to local diets. They stressed that past governments recognized artisanal fishing as the backbone of the coastal economy, and only in recent years had blanket bans emerged under conservation debates.

285. In addition, they stated that monofilament nets and beach seines are not just fishing tools but lifelines for thousands of families. They noted that in Kilifi County, about 65 percent of shoreline households depend directly or indirectly on artisanal fishing. They explained that monofilament nets are cheaper to buy and maintain than multi-filament nets, making them accessible to poor fishermen with limited capital. They warned that banning these nets without affordable alternatives would exclude the poorest from fishing. They added that beach seines require no sophisticated boats and that hauling one involves 15 to 20 men. They noted that this cooperative system provides employment for young people and helps reduce idleness and crime.
286. They also highlighted existing challenges in the sector, citing foreign industrial trawlers, often operating illegally, hence reducing local catches and destroying artisanal gear. Security restrictions, such as the night fishing ban, were said to further limit access to fishing grounds. They explained that the absence of infrastructure like cold storage and modern landing sites forces fishermen to sell catches at low prices or suffer post-harvest losses. During COVID-19, the collapse of the tourism sector caused severe income losses for fishing households. In this context, they argued that additional restrictions such as banning monofilament nets and beach seines would only punish communities already struggling for survival.
287. They criticized Section 41(1)(e) and Section 41(1)(i), noting that the prohibitions were presented as conservation measures but lacked scientific and social justification when applied indiscriminately in Kilifi. They pointed out that the Bill offered no affordable alternatives to monofilament nets, with multi-filament nets being too costly for small-scale fishers.
288. They further argued that past bans had been enforced harshly against artisanal fishermen while industrial trawlers, which cause greater harm, continued operating. They insisted that local fishermen had traditional knowledge of how and where to deploy gear without harming reefs or catching juveniles, and that a blanket ban ignored this wisdom. They also stated that criminalizing poor fishermen for using affordable nets undermines constitutional rights to livelihood and fair access to natural resources.
289. As alternatives, the fishermen proposed:
- i. Regulating the mesh size of beach seines and monofilament nets to prevent juvenile overfishing.
 - ii. Involving Beach Management Units (BMUs) in monitoring and enforcing responsible practices.
 - iii. Providing subsidized access to alternative gear if prohibition became unavoidable.
 - iv. Investing in cold storage, processing, and marketing facilities.
 - v. Cracking down on illegal industrial trawlers, which they identified as the real threat to marine ecosystems.
290. In conclusion, the fishermen reiterated that Section 41(1)(e) and Section 41(1)(i) of the Bill should be deleted. They stated that these clauses unfairly targeted the poorest artisanal

fishermen who had historically sustained their families and communities through responsible use of monofilament nets and beach seines.

291. They emphasized that banning these gears without viable alternatives would destroy livelihoods, undermine cultural traditions, and increase poverty and hunger. They urged the government to adopt a collaborative approach that empowers fishermen, protects the marine environment, and promotes sustainable use of resources.

Committee Observation:

Sustainable use and management of fisheries is necessary hence removal of provision on illegal fishing gear and methods may not be possible. Further, it may not be possible to provide County specific. However the Bill may be amended to provide for subsidies and continuous training on matters related to fishing gear to provide for access to affordable fishing gear.

Faza Island

The members of public in Faza island, Lamu County submitted their views on the Bill as follows;

Clause 4

292. It was observed that Clause 4 is repeated. It was suggested that Clause 4 retain the short title as it appears in the Table of Contents (ToC), namely “Application,” while Clause 5 should carry the short title “Objective and Guiding Principles” as reflected in the ToC. It was further urged that the subsequent text be renumbered accordingly to ensure proper alignment with the Table of Contents.

Committee Observation:

The Committee has proposed appropriate amendments to correct the numerical issues in the Bill.

Clause 2

293. On Interpretation, it was noted that the Bill lacks a definition of the term “Fisheries,” despite its inclusion in Schedule 4 Part 2 of the Constitution of Kenya 2010, and it was recommended that the term be defined in the Bill. It was further observed that the current definition of “Fishers” excludes groups such as foot fishers, and it was recommended that the definition be amended to read;

Fishers means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch, and foot fishers but excluding pilots, naval personnel, other persons in the permanent service of the government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers.

Committee Observation:

Fishery has been defined in the Bill and the amendment may be unnecessary.

Clause 49 (1)

294. Reference is made to protected fish breeding grounds, but no definition has been provided, and it was recommended that the term be defined. The Bill also defines fish landing stations and fishing ports but does not clarify the term fish landing sites, which is commonly used interchangeably with fish landing stations.

Committee Observation:

The Committee has proposed appropriate amendments to distinguish between landing site and fishing ports.

295. Since clarification is necessary due to the central role of fish landing facilities in advancing human rights, food security, livelihoods, poverty eradication, social stability, housing, economic growth, and rural development for artisanal and small-scale fishers, it was recommended that the Bill expressly clarify the relationship between fish landing sites and fish landing stations, and if they differ, a definition of fish landing sites be incorporated.

Committee Observation:

The Committee has proposed appropriate amendments to distinguish between landing site and fishing ports.

Clause 10 (1) (c)

296. On the membership of the board, it is unclear who the five members referred to are. It was recommended that the provision be clarified to specify that two of these members should be drawn from fishers' organizations, one representing inland (freshwater) fishers and one representing marine fishers. This clarification is necessary to ensure inclusivity, transparency, and representation of both inland and marine fishing communities in fisheries governance.
297. The clause should therefore state that five members, not being public officers, be appointed by the Cabinet Secretary for their knowledge and experience in conservation, management, development, and sustainable use of fisheries resources, with two drawn from the fishing community as specified.

Committee Observation:

The appropriate amendments have been made in line with the recommendation, further qualifications have been proposed.

Clause 10(5)

298. While the high academic qualifications under subsection (1)(c) are necessary to bring professional expertise to the body, applying them to artisanal fishers would unfairly exclude them despite their critical role and indigenous knowledge in fisheries management.

299. It was therefore recommended that fishing representatives be exempted from the degree requirement and instead be appointed based on their practical experience, age, knowledge of fishing practices and the ocean, and ability to articulate community concerns in Kiswahili. Appointment in consultation with the BMU Network would ensure legitimacy, inclusivity, and proper representation of fishing communities.

300. The following amendments were recommended;

i. 5(1) A Person shall be qualified to be appointed under subsection 1(c) if, in addition to the requirement of that subsection, such person holds a university degree of its equivalent in

- (a) Natural resource or environmental management. Development or science;
- (b) Fisheries studies. Including fisheries governance, management. Development or science;
- (c) Marine affairs;
- (d) Port management;
- (e) Aquatic science, or
- (f) Any other matters related to the functions of the body.

5(2) The qualification requirements under subsection (1) shall not apply to representatives of the fishing community. Fishing representatives shall instead:

- (a) not be active public officers;
- (b) be at least eighteen years of age;
- (c) possess demonstrated indigenous knowledge of the ocean and fishing practices; and
- (d) be able to articulate themselves effectively in Kiswahili

5(3) The Cabinet Secretary shall appoint such representatives in consultation with the Beach Management Unit (BMU Network).

Committee Observation:

The amendments were adopted with necessary modifications noting requirements under the State Corporations Act for compositions of Boards.

Clause 26 (1)

301. On Fisheries Research and Development Fund, it was observed that a national research institution, the Kenya Marine and Fisheries Research Institute (KMFRI), already exists with the statutory mandate of undertaking fisheries and marine research. It was therefore noted that duplication of mandates should be avoided and alignment with existing legal frameworks ensured. The amendment proposed was that a fund be established, to be known as the Fisheries Development Fund, which would be administered by the Director General.

Committee Observation:

The provision on Fisheries Research and Development Fund has been proposed to be deleted. Further it has been proposed that the Kenya Marine and Fisheries Research Institute be established under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Establishing the Institute in the Act with the creation of direct link to its sectoral Ministry will enhance the governance and management of the Institute. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of on blue economy research and blue economy carbon trading development. This will further contribute to effective capacity building and knowledge transfer to relevant stakeholder to promote sustainability and growth in the blue economy sector.

Clause 40

302. On limitation of fishing and fishing related activities, it was noted that directing grievances to the Cabinet Secretary risks undermining impartiality, while an independent and specialized tribunal provides a fairer and more credible mechanism for dispute resolution. Tribunals, being quasi-judicial bodies, handle appeals efficiently based on law and evidence while minimizing political interference. Routing grievances to a tribunal would therefore enhance accountability, access to justice, and compliance with Article 47 of the Constitution on fair administrative action. The Bill should thus provide that the Director-General may take fisheries management measures and notify affected persons in writing, and that any aggrieved person may appeal in writing to the Fisheries Tribunal established under the Act.

Committee Observation:

A Fisheries Tribunal has been proposed to be established in line with the proposal.

Clause 41(1)

303. On prohibited fishing gears and methods, it was noted that coastal small-scale and artisanal fishing communities rely heavily on fishing for their livelihoods, making it essential that laws, regulations, and management plans reflect their realities and needs. The development of fisheries management plans was proposed to allow for the sustainable use of monofilament gear, which is critical for artisanal fishers targeting mullet and demersal species.
304. An outright ban would negatively affect income, food security, and livelihoods. To guide evidence-based decision-making, it was recommended that research be undertaken on the ecological impacts of monofilament gear. Authorities were urged to engage with artisanal fishers and their organizations in co-developing management plans that protect the marine environment while ensuring socio-economic stability. This recommendation was anchored in Articles 43 and 47 of the Constitution, safeguarding rights to life, dignity, food, social security, and fair administrative action.

305. It was further recommended that Clause 41(1)(c) be deleted and replaced with a provision requiring the establishment of a fisheries management plan for monofilament gear use by artisanal fishers. The proposed framework included: (1) restricting monofilament to stationary use only; (2) designating specific fishing areas; and (3) prohibiting its use in critical habitats or marine ecosystems. Additional measures included strengthening monitoring, control, and surveillance (MCS), involving communities in implementation and oversight, raising awareness on sustainable practices, and conducting continuous research with periodic reviews of the management plan.

Clause 41 (1) (h) (i) (j)

306. Recommends deletion and a provision be developed establishing a fisheries management plan for the use of beach seine gear by artisanal fishers. This approach would safeguard livelihoods while minimizing the ecological impacts associated with beach seine fishing. Sustainable use and management of fisheries is necessary hence removal of provision on illegal fishing gear and methods may not be possible. Further it may not be possible to provide County specific. However the Bill may be amended to provide for subsidies and continuous training on matters related to fishing gear to provide for access to affordable fishing gear.

307. Proposed Management Framework for Beach Seine Fishing

- (1) Specific Mesh Size. Require a minimum mesh size of 45 mm (2 inches) for beach seine nets to reduce bycatch and protect juvenile fish populations.
- (2) Areas of Operation. Designate specific fishing zones for beach seine use, with a minimum distance of 1 nautical mile from coral reefs to minimize habitat destruction and avoid conflicts with other fisheries.
- (3) Closed Seasons. Establish closed seasons during peak breeding and spawning periods to protect fish stocks and ensure long-term sustainability.
- (4) Licensing and Participation Limits. Introduce a licensing system to regulate the number of fishers engaged in beach seine fishing, based on scientific research and community input.

Committee Observation:

Sustainable use and management of fisheries is necessary hence removal of provision on illegal fishing gear and methods may not be possible. Further, it may not be possible to provide County specific. However the Bill may be amended to provide for subsidies and continuous training on matters related to fishing gear to provide for access to affordable fishing gear.

308. Additional Measures for Implementation

- i. Conflict resolution. Establish conflict resolution committees within Beach Management Units (BMUs) to address disputes and support smooth implementation of the management plan.

- ii. Monitoring and enforcement. Strengthen monitoring, control, and surveillance (MCS) to ensure compliance and prevent destructive practices.
- iii. Community engagement. Actively involve artisanal fishers and local communities in awareness-raising, decision-making, and co-management processes.
- iv. Research and review. Undertake continuous research on the ecological and socio-economic impacts of beach seine fishing, with periodic reviews to update and strengthen the management plan.

Committee Observation:

The proposal was adopted and included in the relevant provision regulation of BMU and MCS.

309. Further, it was noted that there are more harmful fishing gears which have not been listed among prohibited gears that should. It was proposed that the following fishing gears/methods are listed and prohibited:
- i. (l) mosquito net;
 - ii. (m) hooker;
 - iii. (n) scuba fishing;
 - iv. (o) such other gear as may be prescribed or prohibited by regulations established under this part.

Committee Observation:

Emerging fishing gear and methods have been proposed to be included in the relevant clause of the Bill to address the proposal.

Clause 42 (1,2,3)

310. On damage, destruction to, and interference with fishing gears, vessels, person prohibited. This clause was noted to provide safeguards against damage caused by vessels to endangered species and protected objects, but it was observed that the Bill is silent on two critical issues for artisanal fishing communities. First, human-wildlife conflict exposes fishers to harm from protected marine species such as stingrays, stonefish, and sharks, sometimes resulting in injury or death.
311. It was recommended that the Bill include provisions for treatment, compensation, and protective measures for affected fishers. Second, artisanal fishers often lose gear when vessels, including industrial fishing vessels, destroy or displace fixed gear at fishing sites. Since fishing gear is a major investment for these communities, the Bill should provide clear provisions on liability, compensation, and restitution.

Committee Observation:

The Committee adopted the proposal and proposed for compensation of fishers engaged in industrial fishing in the relevant provisions.

312. Further, insertion of additional subsections under Clause 42 was recommended to provide that:

(4) Where artisanal fishers suffer injury, harm, or loss as a result of encounters with protected species, the State shall establish a mechanism for treatment, support, and compensation.

(5) Where fishing gear belonging to artisanal fishers is destroyed, damaged, or displaced by vessels or other maritime users, the responsible party shall be liable for compensation, and the State shall provide a framework for enforcement and redress.

Clause 42 (4)

313. Delete repeated words *vessel that caused such consequence were legally entitled* as it is appearing twice in the same sentence.

Committee Observation:

The proposal was adopted.

3.4.5 Kisumu County

The Committee engaged the residents of Kisumu County at the ABDP Regional Office. The persons present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Governments of Kisumu and Kakamega, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Local Administration, Research Scientists and the general public including women, youth and persons with disabilities. The public was sensitized on the clauses of the Bill and thereafter allowed to give views on the Bill. They submitted as follows:

314. The residents of Kisumu County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector. They, however, reiterated that there ought to have been stakeholder engagement before publication of the Bill and consideration of the Bill should give adequate opportunity for all interested parties to make submissions on the Bill.

315. The residents, particularly those in the aquaculture sector, raised concerns that the Bill was not aligned with the proposed Aquaculture Policy undergoing consideration by the Ministry. In this regard, they proposed that aquaculture be regulated in a separate Act.

316. In terms of suggested amendments, the people of Kisumu County provided several constructive recommendations to strengthen the Bill. The residents proposed a comprehensive and clearer definition of a “fisher” and “fishing” under clause 2 of the Bill. A clear and distinct definition of those terms would aid in the proper identification of persons and activities to be regulated.

317. The residents also raised concerns about the harmonization of the definition of “fisheries officer”. The Bill provides that “*fisheries officer*” means the Director-General and any employee of the Service described in the first schedule. The definition does not take cognizance of the role of counties in the appointment of “fisheries officer” at the county level, as the Bill provides for appointment by the Director-General.
318. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government under Parts V and X of the Bill. In the alternative, they suggested the County Government undertake regulation, whereas the National Government restrict itself to policy formulation.
319. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of “emerging fishing gear and methods”.
320. The residents also highlighted the need for proper training and sensitization of “fishers” on the importance of conservation and why certain fishing gear and methods should be avoided. Some of the fishers were uninformed on the detrimental effects of illegal fishing gear and methods, hence the continued engagement in the illegal activities. They proposed that the role of the Kenya Fisheries Service and Kenya Marine Fisheries and Research Institute in stakeholder training and sensitization be made mandatory to ensure the two institutions undertake their role more efficiently.
321. The residents proposed the regulation and protection of breeding areas and further reintroduction of closed seasons to reduce overfishing and enhance conservation. Clause 39 enables the Director-General, by notice and subject to approval by the CS, to impose Closed seasons, however, the residents were of the view that the provision should be in mandatory terms, and the frequency should be determined.
322. The residents proposed that the provisions of the Bill be enhanced to provide for the proper vetting of fishers and registration of boats. This would help to coordinate the regulation of activities.
323. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that the leadership of BMUs be funded; this would help to motivate them in their role in the regulation of beaches and deter instances of corruption.
324. The residents raised concerns about the manner in which the power of hot pursuit had been enforced. In this regard, the proposal that the provision of clause 138 of the Bill on the power of hot pursuit be amended in a manner that it is undertaken reasonably, avoids excessive use of force, destruction of vessels and accidents.

325. The residents also proposed that authorised officers restrict themselves to the arrest of persons undertaking prohibited fishing activities and not engage in the detention of fishing vessels of such persons.
326. The residents also proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake.
327. Some of the residents who were PWDs proposed that there be provision of data on PWDs engaged in the sector and provision of designated areas within beach units for PWDs. They also proposed a waiver in registration and licensing fees for PWDs.

3.4.6 Siaya County

The Committee engaged the residents of Siaya County including present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Siaya, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. They submitted as follows:

328. The residents of Siaya County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.
329. In terms of suggested amendments, the residents of Siaya County provided several recommendations to strengthen the Bill.
330. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government.
331. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of “emerging fishing gear and methods”. The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear.
332. The residents emphasized the need for proper training and sensitization of “fishers” on the importance of conservation and regulation of fishing gear. They observed that there was a disconnect between fishers and the Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute in terms of their role in training and general stakeholder engagement. The fisheries officers had focused on regulation and neglected their role to sensitize and train members of the public.
333. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need to streamline the functions of the Kenya Coast Guard Service and the Kenya Fisheries Service in this regard.

334. The residents proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation. They highlighted that the removal of the closed season had led to the depletion of certain species in the lake, such as Lake Victoria Sardine, commonly referred to as “*omera*”.
335. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units by the National Government. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that BMUs be incorporated into monitoring and counter-surveillance (MCS) to offer support to authorized officers.
336. The BMU leadership proposed that a revenue-sharing formula be introduced in the Bill, from which respective BMUs could be allocated resources to facilitate their functions. They also proposed that a percentage of the landing fee paid could be allocated to respective BMUs.
337. The BMU leadership finally proposed that there be better data collection on registered and licensed fishers for enhanced coordination and regulation.
338. The residents proposed that an amendment be made to provide that all confiscated illegal fishing gear be subjected to destruction or other irreversible disposal measures, to eliminate opportunities for its re-entry into the market through corrupt practices.
339. A representative from the aquaculture sector in the region raised concern that the Bill was not aligned with the proposed Aquaculture Policy, which is being considered by the Ministry. In this regard, they opposed the Bill and proposed that aquaculture be regulated in a separate Act. However, the majority of the residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake.
340. The residents also noted there was a need to streamline regional laws and agreements regarding the utilization of joint resources such as Lake Victoria. They suggested the introduction of fishing quotas.
341. Some of the residents finally raised concern that Kenya had not implemented some of the recommendations emanating from reports of the Lake Victoria Fisheries Organization (LVFO). The LVFO, which is a specialized institution of the East African Community (EAC), is mandated to coordinate and manage the fisheries and aquaculture resources of Lake Victoria. Implementation of this report would aid in better management of the fisheries sector.

3.4.7 Homa Bay County

The Committee engaged the residents of Homa Bay County including fishermen, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Homa Bay, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and

Fisheries Research Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. They submitted as follows:

342. The residents of Homabay County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.
343. In terms of suggested amendments, the residents of Homabay County provided several recommendations to strengthen the Bill.
344. The residents also raised concerns about the harmonization of the definition of “fisheries officer” vis-à-vis “*authorized officer*”. The Bill provides that “*fisheries officer*” means the *Director-General and any employee of the Service described in the first schedule*, whereas “*authorised officer*” means a *fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18*. The definition does not take cognizance of the role of counties in the appointment of “fisheries officer” at the county level, as the Bill provides for appointment by the Director-General.
345. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government. They proposed licensing to be at one level to avoid conflicts. They also proposed enforcement to be at the National Government level. However, some residents proposed that counties should license inland fisheries such as aquaculture and regulate artisanal fishermen.
346. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of “emerging fishing gear and methods”. The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear.
347. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need for better coordination between the Kenya Coast Guard Service and the Kenya Fisheries Service.
348. The residents proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation. They observed the need for enhanced protection of breeding zones and the introduction of high penalties for violation of the same.
349. The residents also raised concerns about the protection of landing sites through the issuance of the requisite title deed to avoid the grabbing of such areas.
350. The residents who are members and officials of Beach Management Units (BMUs) raised concerns on the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs

be incorporated in the Act and not Regulations. They also proposed that BMUs be professionalized, term limits of BMU leadership be removed, and BMUs be regulated by the National Government as opposed to the County Governments. They proposed that BMUs be incorporated in monitoring and counter-surveillance (MCS) to offer support to authorized officers.

351. The BMU leadership finally proposed that they be funded and that data collection at the beach level be digitized.
352. The residents proposed that an amendment be made to provide that all confiscated illegal fishing gear be subjected to destruction or other irreversible disposal measures, to eliminate opportunities for its re-entry into the market through corrupt practices.
353. The residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake, such as harmful fish feeds. They further proposed enhanced protection of the indigenous fishing community. In this regard, they proposed the enhancement of clause 61 on the requirement of environmental impact assessment before approval and licensing of aquaculture activities, including the introduction of an environmental protection bond requirement.
354. The residents noted that Bill had focused on fishing and related activities; however, there was a need to introduce an aspect of promoting the blue economy. Further, the Bill ought to take cognizance of climate change and its impact on fishing.
355. Some residents further proposed that the role of the Director-General of the Kenya Fisheries Services on supervision be moved to the Director of the relevant State Department.
356. The resident also highlighted the need to retain the Fish Levy Trust Fund. This Fund would aid in capacity building and further its objectives, which could be enhanced to provide loans and start-up capital to marginalized groups, such as women, youth and persons with disabilities engaged in the fisheries sector.

3.4.8 Migori County

The Committee engaged the residents of Migori County on the Fisheries Management and Development Bill and they submitted as follows:

357. The residents of Migori County provided several recommendations to strengthen the Bill.
358. To avoid double taxation, the residents highlighted the need for a single licensing mechanism by the respective County Governments and the National Government.
359. Additionally, residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of “emerging fishing gear and methods”. The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the

cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear. They also proposed that there be a clear definition or description of legal fishing gear as opposed to prohibited fishing gear, as provided in clause 41

360. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need for better coordination between the Kenya Coast Guard Service and the Kenya Fisheries Service.
361. The public proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation for species such as the Lake Victoria Sardine, commonly referred to as "*omena*". They proposed the closed season should be two weeks in a month to restore and conserve the lake.
362. The residents also raised concerns about the protection of landing sites through the issuance of the requisite title deed to avoid the grabbing of such areas.
363. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. The election of BMUs' leaders should be transparent, and term limits for BMU leadership should be removed.
364. To promote accountability and transparency in monitoring and counter-surveillance (MCS), it is proposed that authorized officers undertake patrols in the daytime and BMUs be incorporated in (MCS) and patrol to offer support to authorized officers. They also proposed that no punishment be enforced during patrol, and that any action required be undertaken at a designated location.
365. The BMU leadership finally proposed that they be funded, including the provision of a monthly stipend to facilitate their functions. They also proposed that data collection at the beach level be digitized. In terms of data collection, the fishers expressed the need for the provision of a recording of expenses incurred to be factored at the point of collection of landing and other related fees.
366. The public suggested that minor offences be handled in a corrective manner and not through the imposition of punitive measures for first-time offenders. Example where it is a first offence, educate on the importance of wearing a life jacket and issue a warning for a person who does not wear a life jacket where required to.
367. The residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake, such as harmful fish feeds. They emphasized the need for capacity building training in aquaculture and observed that aqua tourism was a potential source of income that could be utilized.
368. The public also voiced concern that there was a need to promote and protect artisanal fishers, and there was a need for funding of such fishers through access to loan facilities. In view of this, the resident highlighted the need to retain the Fish Levy Trust Fund to facilitate capacity building and to provide loan facilities to fishers.

369. The public also highlighted the need to streamline the double licensing and registration of fishing vessels by the Kenya Maritime Authority and the Kenya Fisheries Services.

3.4.8 Nakuru County

Naivasha

The Departmental Committee on Blue Economy, Water, and Irrigation conducted stakeholder engagements in Naivasha, Nakuru County allowing the public to provide views on the Fisheries Management and Development Bill, 2023. The submissions reflected the concerns, aspirations, and lived realities of artisanal and small-scale fishers, who form the backbone of Kenya’s blue economy. This summary harmonizes the common issues raised in Naivasha:

370. Public Participation and Inclusivity

- i. Ensure genuine, transparent, and timely public participation in line with Articles 10 and 118 of the Constitution.
- ii. Provide adequate time for review and conduct localized forums to empower fishers with meaningful engagement.

371. Licensing and Fees

- i. Retain the license fee at Ksh. 200 and revoke the unconsulted increase to Ksh. 560.
- ii. Replace paper licenses with durable waterproof cards suitable for marine environments.

372. Fishing Gear and Methods

- i. Withdraw blanket bans on monofilament nets and beach seines and instead regulate their use for different water bodies eg, for lakes and oceans due to different species and sizes of fish in different water bodies:
 - o Mesh size controls,
 - o Designated fishing zones,
 - o Seasonal closures, and
 - o Community monitoring through BMUs.
- ii. Offer clear guidance on permitted gears, not only prohibited ones.

373. Strengthening Beach Management Units (BMUs)

- i. Legally empower BMUs to co-manage fisheries with county and national authorities.
- ii. Provide stipends or salaries for BMU leaders to support effective operations.
- iii. Ensure inclusion of Persons with Disabilities (PWDs) in BMU leadership.
- iv. Prevent political interference in BMU operations and safeguard their independence.

374. Devolution and Governance

- i. Align the Bill with the Fourth Schedule of the Constitution by strengthening county governments’ role in fisheries management, licensing, and enforcement.
- ii. Limit the powers of the Director General to avoid duplication and centralization.

- iii. Assign the national government responsibility for international and deep-sea fisheries, while counties manage local fisheries.

375. Infrastructure and Market Development

- i. Invest in landing sites, cold storage, fish processing hubs, and transport links.
- ii. Ensure there is riparian land near the lake to ensure pollution of the lake caused by farming activities do not interfere with the fish.
- iii. Reclaim encroached landing sites, reopen blocked access roads, and secure title deeds for BMU-managed facilities.
- iv. Facilitate market linkages, value addition, and export readiness while safeguarding local food security.

376. Protection of Fishers and Livelihoods

- i. Establish compensation mechanisms for injuries, loss of life, or destruction of gear caused by vessels or marine wildlife.
- ii. Provide larger boats, safety equipment, and insurance to enhance security at sea.
- iii. Recognize and protect the rights and livelihoods of artisanal fishers in all regulatory frameworks.

377. Protection of Coast Guards

- i. Establish compensation mechanisms for injuries, loss of life, or destruction of gear caused by marine wildlife and illegal fishermen.
- ii. Provide larger boats, safety equipment, and insurance to enhance security at sea.

378. Education, Training, and Youth Empowerment

- i. Establish a Youth Fisheries and Aquaculture Fund to support innovation and value addition.
- ii. Provide scholarships and bursaries in marine sciences and blue economy studies.

379. Combating Illegal, Unreported, and Unregulated (IUU) Fishing

- i. Strengthen inspections of foreign vessels and ensure government presence onboard.
- ii. Enhance monitoring, control, and surveillance (MCS) to protect artisanal fishers and marine ecosystems.
- iii. Section 39(3)(b,c) be removed or reviewed (on special licenses)

380. Environmental Protection and Conservation

Pollution - Prevent harmful waste disposal from farmers and destructive practices like dumping pesticides in the lake

3.4.9 Baringo County

The Departmental Committee on Blue Economy, Water, and Irrigation conducted stakeholder engagements in Baringo County allowing the public to provide views on the

Fisheries Management and Development Bill, 2023. The submissions reflected the concerns, aspirations, and lived realities of artisanal and small-scale fishers, who form the backbone of Kenya's blue economy as follows:

- i. Determination of Jurisdiction Over the Lake - Stakeholders requested clarity on whether the management of the lake falls under county or national government.
 - ii. Recognition of Beach Management Units (BMUs) - They proposed that BMUs be formally recognized in the relevant legislation and allowed greater autonomy in managing their affairs.
 - iii. Enhanced Intergovernmental Consultation – They expressed the need for strengthened collaboration and regular consultation between the county and national government was highlighted.
 - iv. Licensing and Cess/Landing Charges - Concerns were raised regarding the current framework for licensing and associated cess or landing fees.
 - v. Capacity Building for Fishers - Stakeholders requested that fisheries officers intensify training and capacity-building programmes for fishers.
 - vi. Support for Regulation of Fishing Gears - They emphasized the need to regulate fishing gears and ensure compliance to protect fish stocks.
 - vii. Provision of Speed Boats- The national government was urged to provide speed boats to enhance fisheries management and ensure safety.
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- viii. Vetting of BMU Leadership - Stakeholders recommended proper vetting of Beach Management Unit officials to ensure accountability and transparency.
 - ix. Feeding of Fish in Lake Baringo – Concern was raised regarding practices related to feeding fish and the need for clear guidance or regulation.
 - x. Prohibition of Night Fishing - There was a proposal to restrict or prohibit night fishing due to safety and conservation concerns.
 - xi. Control of Agricultural Activities Along the Lake Shoreline - Stakeholders recommended prohibiting or regulating agricultural activities near the lake to reduce pollution and environmental degradation.
 - xii. Introduction of Closed Fishing Seasons - They suggested establishing specific closed seasons to allow fish regeneration and sustain the fishery.

- xiii. Security for Wildlife and Humans - Concerns were raised about the security of both wildlife and local communities, calling for stronger measures to enhance safety in and around the lake.

3.4.10 Turkana County

381. The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill no. 29 of 2023 in Turkana County on Friday, 14th November, 2025, at Kalokol. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;
382. Members of the public raised concern on the prohibited gears particularly monofilament nets yet the Bill is silent on the manufacturer. They proposed that it should be an offence in the Bill for any manufacturer who manufactures monofilament nets or any other prohibited fishing gears.
383. There was also a proposal to expand the definition of the fisheries officer to also include those currently working in the National and County Governments departments of fisheries.
384. Composition of the institutions such as the Advisory Council and the Fish Marketing Authority established in the Bill are mostly comprised of members of the National Government. There was a proposal to ensure fair distribution of the membership to include county governments considering that fisheries is a devolved function in the Constitution.
385. Additionally, the public proposed inclusion of BMUs representation in the established institutions. Highlighting the importance of empowering BMUs, they suggested that BMUs be granted more legal recognition and decision-making powers to enable them to co-manage fisheries alongside county and national authorities. This, they argued, would improve accountability and ensure sustainable fisheries management.
386. Moreover, there was a concern that the Bill proposes to establish these institutions in Nairobi County, it was proposed to have these institutions in other cities such as Kisumu or Eldoret.
387. In the same way, the public proposed for fishing ports to be included in inland waters such as Lake Turkana and provision of aquaculture funding of fisherfolks in inland fishing ground such as Lake Turkana. They also noted that high licensing fees charged on aquaculture activity may also discourage fish farming.
388. Members of the public also proposed for inclusion in the Bill the responsibility of the Government to get rid of any pollution in the water that is naturally occurring such as the Mathenge weeds that have invaded the lake.
389. Members of the public raised concern about the need for capacity training of BMUs on how to handle post-harvest losses noting the hot weather in Turkana County and the perishable nature of fish caught by the fisher-folks. Further, they proposed improvement of infrastructure and market access. They recommended transport links and market

infrastructure be enhanced to allow fisher-folks to sell their catch directly. This would cut out exploitative middlemen and improve earnings for local communities. They further proposed the establishment of fish processing and packaging hubs to promote value addition and exports.

390. The fisher-folks noted with concern the lack of awareness of boundaries in the Lake noting regular arrests by officers from the Kenya Wildlife Service for fishing in waters strictly prohibited by KWS-managed marine parks. They proposed that the Bill should consider inclusion of KWS in reference to creating awareness, training and compensation of fisher-folks fishing in waters bordering KWS-managed marine parks.

3.5 Written Submissions from Stakeholders

391. The Committee further received memoranda from the Kenya Fish Marketing Authority (KFMA), Lake Victoria Aquaculture (LVAA) and Lake Naivasha Basin Landscape Association (LANABLA) as follows:

3.5.1 Kenya Fish Marketing Authority (KFMA)

The Committee received Memorandum on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) from the Kenya Fish Marketing Authority (KFMA) as follows:

392. The fisheries sector in Kenya is a critical component of the national economy, contributing significantly to food security, employment, and foreign exchange earnings. Kenya is endowed with vast inland water bodies, including Lake Victoria, Lake Turkana, and Lake Naivasha, as well as a long coastline along the Indian Ocean. Additionally, the potential for aquaculture remains largely untapped, representing a new frontier for economic growth. Despite this potential, the sector faces numerous challenges, including overfishing, illegal fishing, inadequate infrastructure, and weak regulatory frameworks.
393. The recent approval by the Cabinet to dissolve the Kenya Fish Marketing Authority (KFMA) and the ongoing debate in Parliament to replace the Fisheries Management and Development Act of 2016 present a unique opportunity to reimagine the governance and management of the fisheries sector. The KFMA Board, in consultation with stakeholders, proposes the establishment of a single, unified state corporation—the Kenya Fish Development Authority (KeFDA)—to manage and develop the fisheries sector in Kenya. This paper outlines the rationale, mandate, and functions of KeFDA, in line with international fisheries instruments, and provides a compelling case for its establishment.
394. The fisheries sector in Kenya has the potential to contribute up to KES 100 billion annually to the national economy. However, this potential remains unrealized due to fragmented management, overlapping mandates, and inadequate coordination among existing institutions. The current regulatory framework, split between the Kenya Fisheries Service (KeFS) and KFMA, has led to inefficiencies and gaps in service delivery.
395. The establishment of KeFDA will address these challenges by:

- i. Streamlining governance: KeFDA will consolidate the functions of KeFS and KFMA under a single authority, ensuring cohesive policy implementation and resource allocation.
 - ii. Enhancing sector coordination: By bringing together regulatory, marketing, and development functions, KeFDA will provide a unified approach to managing the fisheries sector.
 - iii. Promoting sustainable practices: KeFDA will align its operations with international fisheries instruments, such as the FAO Code of Conduct for Responsible Fisheries, to ensure sustainable exploitation of fisheries resources.
 - iv. Unlocking aquaculture potential: KeFDA will prioritize the development of aquaculture as a key driver of economic growth, leveraging Kenya's favourable climatic conditions and water resources.
396. The mandate of KeFDA shall be to promote, regulate, and develop the fisheries sector in Kenya through sustainable management of fisheries resources, effective marketing strategies, and the promotion of aquaculture. KeFDA will operate as a state corporation under the Ministry of Agriculture, Livestock, Fisheries, and Cooperatives, with the following core objectives: to ensure sustainable exploitation and conservation of fisheries resources; to promote the development of aquaculture as a key pillar of the blue economy; to enhance the value addition and marketing of fish and fish products; to provide technical and financial support to fishers, fish farmers, and other stakeholders; and to enforce compliance with national and international fisheries regulations.
397. KeFDA will be structured into specialized directorates, each responsible for specific functions currently under KeFS and KFMA. The proposed directorates and their functions are as follows:
- i. Directorate of Fisheries Management will develop and implement policies for the sustainable management of fisheries resources; monitor and control fishing activities to prevent overfishing and illegal fishing; conduct research and data collection to inform fisheries management decisions; and promote community-based fisheries management initiatives.
 - ii. Directorate of Aquaculture Development will develop and implement strategies for the growth of aquaculture; provide technical support and training to fish farmers; facilitate access to quality fish feeds, fingerlings, and other inputs; and promote public-private partnerships in aquaculture development.
 - iii. Directorate of Marketing and Value Addition will develop and implement marketing strategies for fish and fish products; establish and manage
 - iv. fish storage, processing, and cold chain facilities; promote value addition and export of fish products; and facilitate market access for small-scale fishers and fish farmers.

- v. Directorate of Compliance and Enforcement will enforce compliance with fisheries laws and regulations; combat illegal, unreported, and unregulated (IUU) fishing; conduct surveillance and patrols in fishing zones and landing sites; and collaborate with other law enforcement agencies to ensure compliance.
 - vi. Directorate of Research and Development will conduct research on fish stocks, aquaculture technologies, and climate change impacts; develop innovative solutions for sustainable fisheries management; collaborate with academic and research institutions to advance fisheries science; and disseminate research findings to stakeholders.
 - vii. Directorate of Finance and Administration will manage the financial resources of KeFDA; develop and implement internal controls and accountability mechanisms; provide administrative support to other directorates; and facilitate capacity building for KeFDA staff.
398. KeFDA will operate in accordance with international fisheries instruments, including the FAO Code of Conduct for Responsible Fisheries—KeFDA will promote responsible fishing practices and sustainable resource management. United Nations Sustainable Development Goals (SDGs)—KeFDA will contribute to SDG 14 (Life Below Water) by conserving marine and inland fisheries resources. Port State Measures Agreement (PSMA)—KeFDA will implement measures to combat IUU fishing in line with the PSMA. Convention on International Trade in Endangered Species (CITES)—KeFDA will ensure that trade in fish and fish products complies with CITES regulations.
399. The establishment of KeFDA is a strategic intervention that will transform the fisheries sector in Kenya. By consolidating the functions of KeFS and KFMA, KeFDA will provide a unified and efficient framework for managing fisheries resources, promoting aquaculture, and enhancing the marketing of fish products. This will unlock the sector's potential to contribute KES 100 billion annually to the national economy, create employment opportunities, and improve food security.
400. The KFMA Board respectfully requests Parliament to consider this memorandum and enact legislation for the establishment of KeFDA. We believe that this initiative will position Kenya as a leader in sustainable fisheries management and aquaculture development in the region.

3.5.2 Lake Victoria Aquaculture Association (LVAA)

- 401. The Bill introduces substantial reforms to the governance framework for fisheries and aquaculture, including the establishment of new institutional structures and regulatory requirements that will have a direct bearing on aquaculture investments and operations across the country.
- 402. The analysis acknowledges that an ideal African aquaculture law must prioritize sustainability, equitable access, and stakeholder participation, ensuring long-term

resource management while supporting livelihoods and food security. Nonetheless, keen scrutiny of the current Bill raises the following critical concerns:

403. On Core legal and regulatory weaknesses of the Fisheries Development and Management Bill, 2023, the Bill fully replicates the Fisheries Management and Development Act of 2016, with little substantial progress or variation. This duplication signifies the Ministry's lack of policy imagination and commitment toward comprehensive sectoral reform. Given the significant shifts in aquaculture over the past decade, driven by climate change, innovation, and regional integration, the reintroduction of nearly identical legislative text fails to address current and future needs. The opportunity to reset the regulatory foundation for aquaculture has been lost due to a copy-paste approach.
404. The Bill lacks specific provisions for targeted development measures to address aquaculture's unique challenges and opportunities. While Section 30 enables the Director-General to promote development through various measures, these broadly apply to all fisheries sectors rather than tailored to aquaculture's distinct needs. In particular, the Bill omits: specific incentives for aquaculture investment and expansion; targeted research and technology transfer programs for aquaculture; specialized extension services for aquaculture producers; and dedicated credit facilities or risk-sharing mechanisms for aquaculture operations.
405. These omissions may limit the Bill's effectiveness in driving aquaculture development, particularly for small and medium-scale producers who often face significant barriers to entry and growth. Further, this limited recognition represents a missed opportunity to position aquaculture as a strategic growth sector rather than simply another regulated activity. Without explicit recognition of aquaculture's development potential, there's a risk that implementation will focus disproportionately on compliance rather than promotion.
406. The Bill seems to operate in a policy vacuum. There is no reference to a national aquaculture development policy or an overarching strategy that informs its regulatory framework. Sound legislative processes dictate that laws should be driven by policy. In this case, the lack of a guiding policy framework renders the Bill directionless, reactive, and susceptible to inconsistencies in implementation. It becomes impossible to discern the government's long-term vision for aquaculture, including whether the intent is regulation, development, commercialization, or merely administrative control.
407. The Bill perpetuates an outdated view of aquaculture as a sub-sector of capture fisheries rather than recognizing it as a distinct economic pillar. This subordination is evident in the generic institutional structures and standardized licensing requirements. Globally, aquaculture is acknowledged as a rapidly growing, independent sector with specific regulatory, investment, and innovation needs. A separate Aquaculture Development and Regulation Act, distinct from capture fisheries, should be enacted to fully support its growth, aligning with international best practices and regional commitments under the African Union Blue Economy Strategy.

408. Aquaculture is a constitutionally devolved function. However, the Bill's centralization of authority, particularly in Sections 7-29 and 33-37, fails to meaningfully incorporate county governments into decision-making. This creates fertile ground for jurisdictional friction, duplication of functions, and regulatory confusion. A genuinely progressive Bill should reflect a cooperative and coordinated framework, enabling counties to take the lead in localized aquaculture development while being guided by a harmonized national policy.
409. The division of responsibilities between national and county levels, while constitutionally necessary, creates potential coordination challenges that could hamper coherent sector development. Section 34 allows counties to develop fisheries management plans, and Section 65 assigns counties responsibility for monitoring aquaculture activities, but the Bill provides limited mechanisms for harmonizing these approaches across counties. This fragmentation could lead to inconsistent development approaches, creating an uneven playing field for aquaculture operators in different counties. Without effective coordination mechanisms, the sector may develop in a patchwork fashion rather than through a coherent national strategy.
410. The Bill fails to place research and development (R&D) at the core of aquaculture transformation. While Section 27 establishes a Fisheries Research and Development Fund, there is no specific allocation or framework aimed at aquaculture-related innovation. Given the sector's dependence on adaptive breeding, disease control, feed efficiency, and climate resilience, R&D must be integrated as a strategic priority. Legislative acknowledgment of R&D funding, incubator programs, and innovation partnerships (particularly with universities and the private sector) is crucial for sectoral progress.
411. The Bill emphasizes compliance and control mechanisms but overlooks support for innovation and investment incentives. Sections 114-123 impose layered licensing, registration, and inspection processes without exceptions for pilot projects or incubation schemes. Furthermore, there is no provision for aquaculture research incubation or the promotion of technological innovation.
412. Sections 84, 86, and 123 create a consistent licensing system for all aquaculture activities, regardless of scale or environmental risk. Furthermore, the annual renewal process outlined in Section 122 adds to bureaucracy and impedes long-term investment planning.
413. Part XIII (Sections 136-152) grants inspectors extensive enforcement powers, such as warrantless entry (Section 140) and administrative proceedings without thorough judicial review (Sections 182-183). These provisions pose legal and operational risks for investors and small operators.
414. Although the Kenya Fisheries Service (Sections 7-29) and the Fish Marketing Authority (Sections 198-207) are established, decision-making remains overly centralized in the hands of the Cabinet Secretary and Director-General. Sections 33-37 do not sufficiently clarify the roles between the county and national levels, leading to potential jurisdictional overlap.

415. The Bill lacks incentives for innovation, investment zones specific to aquaculture, and frameworks for capacity building. The Fish Levy Trust Fund (Section 28) is poorly structured and offers no dedicated support for R&D or disease management in Aquaculture. Further, sections 65-70 address fish health, the Bill does not establish a national disease response mechanism, aquatic animal health protocols, or designated quarantine and disease zones.
416. Section 119 enables the Director-General to make licensing decisions without consulting the public. Section 83 permits the discretionary publication of information without requiring transparency or stakeholder involvement in spatial planning or regulatory reforms.
417. The following measures should be considered as legislative amendments or accompanying policy actions to address these core structural deficits:
 - i. Draft a standalone Aquaculture Development and Regulation Bill, separate from the FMD Bill, with specific investment, innovation, commercialization, and environmental protection provisions. Additionally, define the roles and responsibilities for government agencies and stakeholders.
 - ii. Mandate the creation and release of a National Aquaculture Policy and Strategic Plan before or simultaneously with any regulatory framework. Additionally, ensure that aquaculture policies align with broader national development goals, including food security, economic growth, and environmental sustainability.
 - iii. Establish clear regulations for aquaculture development, including site selection, water quality standards, and disease management to minimize environmental impacts.
 - iv. Legislate precise R&D funding mechanisms supported by law, including aquaculture incubators and grants.
 - v. Establish a Devolution Coordination Mechanism (Intergovernmental Coordination Framework) featuring a statutory intergovernmental forum to align county and national strategies regarding Aquaculture.
 - vi. Provide secure tenure rights to aquaculture operators, ensuring long-term investment and sustainable practices. This program should focus on the needs of small-scale aquaculture producers by providing access to credit, technology, and training.
418. The Sections Review of the Fisheries Management and Development Bill, 2023 highlights key policy, institutional, and regulatory issues affecting aquaculture. Under Policy Issues, it notes that an overemphasis on conservation vs. economic growth (Part V, Sections 30–53, and Part VIII, Sections 61–74) may result in strict conservation measures that limit aquaculture expansion and innovation. These measures could impose additional costs through enhanced environmental compliance requirements. Further, the focus on ecological sustainability and community access (Sections 5, 63, 64) could restrict operational expansion due to increased compliance demands and community negotiations.

419. The provision for subsistence fishing exemptions (Section 85) risks market distortion if subsistence fishers shift to commercial activities without oversight, potentially leading to unfair competition. A precautionary approach in aquaculture (Sections 66, 70) mandates environmental impact assessments and restricts drug/chemical use, which could delay operations and elevate compliance costs.
420. In addition, the need for harmonization with county plans (Sections 33–37) requires county fisheries management plans to align with national policies, which might result in bureaucratic delays. Transboundary collaboration requirements (Section 73) impose obligations to align with neighboring states' aquaculture policies, possibly complicating operations in shared water bodies.
421. On Institutional Framework Concerns, the establishment of Kenya Fisheries Service (KFS) (Sections 7–29) creates a centralized authority that requires new relationships, and over-reliance on the Director-General for approvals might lead to bureaucratic delays. Furthermore, the creation of the Kenya Fisheries Council (Section 6) introduces a high-level advisory body that will shape aquaculture policy but may lack sufficient industry representation. On the establishment of the Fish Marketing Authority (Sections 198–207), while providing necessary marketing infrastructure, FMA's control over trade may restrict private-sector pricing autonomy and market strategies.
422. The review further outlines Relations between County and National Government (Sections 33–37), the dual regulatory oversight requiring compliance with both jurisdictions could lead to conflict between county-level plans and national directives, resulting in regulatory inconsistency. Regarding Observer Programme Implementation (Sections 147–152), the mandatory deployment of observers could increase operational costs and create logistical challenges for aquaculture operations. In terms of Coordination Between Levels of Government (Sections 33–37, 65), the lack of clear coordination mechanisms between national and county governments may result in confusion and compliance difficulties.
423. Under Licensing and Operational Requirements, the section on Commercial Aquaculture Licensing (Sections 61, 84(1)(d), 113–123) highlights that complex mandatory licensing with various prerequisites and conditions may deter investment and delay project launches. The area of Environmental Compliance (Sections 48, 62, 68, 119(2)–(3)) is marked by more stringent environmental impact assessment requirements for aquaculture establishments, adding to start-up costs and timeframes.
424. For Aquaculture Site Inspection (Section 121), mandatory pre-approval inspections with associated fees add to establishment costs. The stipulations on License Validity and Renewal (Section 122), a 10-year license term with annual renewal requirements creates both stability and regular administrative burden. Further, the Permit Conditions (Sections 118, 122) entail extensive requirements covering facility construction, species control, and safety standards, thereby increasing compliance complexity.

425. In the area of Operational Regulations and Compliance, the review points out that Fish Disease Management (Sections 65–67, 70, 122(2)) imposes strict compliance for disease prevention and control, empowering county governments to enforce stock destruction and other stringent measures. Furthermore, on Waste Management Obligations (Section 68), mandatory practices may necessitate facility redesigns, with the cost of treating or securing waste potentially straining small to medium-sized enterprises. For Escaped Fish Management (Section 69), the law imposes liability for fish escapement along with immediate reporting requirements, and the associated strict penalties could disproportionately affect smaller operators.
426. On use of chemicals and pharmaceuticals (Section 70, 122(2)(i)), restrictions on use of drugs, chemicals, antibiotics with prior approval required, potentially limit productivity and innovation. Further, on record keeping (Section 122(2)(p)), extensive record keeping obligations add administrative burden. Additionally, data reporting and confidentiality (Part IX sections 75–83), indicates that a mandatory disclosure of sensitive operational data risk intellectual property security.
427. Under species and breeding controls, the review notes that on introduction of exotic/Gm Species (Section 66), a written permission required with environmental assessment prerequisites potentially limit innovation. Further on fish transfer regulations (Section 54–56, 66), restrictions on movement of fish, eggs fingerlings between establishments adds operational complexities. On information requirements (Section 71), mandatory collection and reporting of data on wild and GM species creates additional administrative requirements.
428. Further, in the area of marketing and trade provisions, on fish marketing framework (Section 57, 198–207) indicates that new structured marketing system through fish marketing authority potentially limits market autonomy. On quality and safety standards (Section 58–60), comprehensive quality control and safety requirements increase monitoring and compliance cost. In addition, export restrictions (Section 54–55) notes that regulated export of live fish with additional compliance requirement potentially restricts market access.
429. On various clause on penalties for compliance indicates that significant fines (up to 5 million) and imprisonment terms for infractions could cripple businesses financially. Furthermore, administrative proceedings (Section 182–183), notes possibility of summary administrative proceedings for violations without full judicial oversight.
430. On the financial and administrative concerns, the allocation of the Fish Levy Trust Fund under Section 28, indicates that the proposed allocation of funds to counties could either support or burden aquaculture development depending on implementation. High penalties on multiple sections were also noted, with the impact being that severe financial penalties for non-compliance were creating disproportionate risks, especially for smaller operators. Additionally, the cost of compliance on multiple sections was highlighted, with the impact being the cumulative cost of meeting multiple regulatory requirements potentially affecting business viability.

431. On critical issues concerns based on the review of the bill, it was noted that the bill introduces a significant regulatory burden by imposing multiple new licensing, reporting, and compliance requirements. These obligations are expected to increase administrative challenges and operating costs for aquaculture enterprises. In addition, dual oversight arising from overlapping national and county jurisdiction may create confusion and result in conflicting regulatory requirements, making it difficult for stakeholders to comply efficiently.
432. Furthermore, the proposed environmental assessment requirements are more stringent and could delay project approvals while also increasing start-up costs for new entrants into the sector. Moreover, the bill grants broad enforcement powers, including extensive inspection rights and the imposition of significant penalties. This increases the operational risks faced by businesses, especially those unable to keep up with frequent inspections and tight compliance expectations.
433. With respect to operational restrictions, the bill introduces new limitations on species selection, use of chemicals, feed types, and aquaculture management practices. These constraints could reduce flexibility and innovation in farming operations. In addition, product and market controls, such as mandated quality standards and marketing restrictions, may limit market access for some producers, particularly those operating at a smaller scale or with limited technical capacity.
434. Lastly, the introduction of disproportionate penalties poses another concern. The severity of the penalties may disproportionately affect smaller operators who lack the resources to establish the necessary compliance infrastructure, thereby putting their operations at risk of closure or financial strain.
435. On recommendations, it was noted that to address the above concerns, several strategic measures are proposed;
- i. Streamline Licensing Processes: Efforts should be made to introduce fast-track approvals for low-risk aquaculture activities. It is also important to clearly delineate the licensing authority between county and national governments to avoid duplication and inefficiencies. Furthermore, the implementation of digital licensing platforms can help reduce bureaucratic delays and improve service delivery.
 - ii. Balance Conservation and Commercial Needs: The bill should exempt closed-system aquaculture from certain restrictions applicable in marine protected areas, given their limited environmental impact. It should also allow for the conditional use of growth-enhancing drugs under strict veterinary oversight. Additionally, a tiered regulatory approach, based on operation size and environmental impact, would help ensure fair and proportional regulation across the industry.
 - iii. Mitigate Financial Burdens: Financial barriers can be addressed by providing subsidies or tax incentives to support the development of waste management infrastructure. Moreover, penalties for small and medium-sized enterprises (SMEs) should be capped based on revenue thresholds to ensure proportionality.

Clearer compensation mechanisms should also be established for the destruction of aquaculture stock due to disease outbreaks.

- iv. **Enhance Data Protections:** Confidentiality safeguards should be strengthened to protect proprietary aquaculture data from unnecessary exposure. In this regard, disclosure requirements should be limited strictly to information essential for regulatory compliance, thereby respecting commercial sensitivities.
- v. **Clarify Institutional Roles:** There is a need to establish clear procedures and timelines for intergovernmental coordination to avoid overlaps and gaps in regulatory responsibilities. In addition, the inclusion of aquaculture industry representatives in both the Kenya Fisheries Council and the Fish Marketing Authority will enhance stakeholder engagement. Furthermore, specific appeal mechanisms should be defined to help resolve conflicts between national and county regulations effectively.
- vi. **Implement Phased Compliance:** To ease the transition, existing operations should be allowed adequate time to meet new regulatory requirements. Moreover, compliance schedules should be graduated based on the size and capacity of the enterprise, ensuring that smaller operators are not unduly burdened.
- vii. **Support Technical Capacity Development:** Resources from the Fish Levy Trust Fund should be allocated towards building compliance capacity. This includes developing industry-specific guidance documents and providing training to ensure all stakeholders are adequately informed about the new requirements.
- viii. **Governance and Policy Framework:** It is essential to establish a clear and comprehensive legal framework for aquaculture that defines the roles and responsibilities of all government agencies and stakeholders. In addition, investment in data collection, monitoring, and research will support evidence-based decision-making in fisheries and aquaculture management. To conclude, transparency and accountability should be promoted through guaranteed public access to relevant information and the creation of effective dispute resolution mechanisms.

436. It was further noted that to effectively support aquaculture, the following measures should be integrated into the legal and policy framework. Firstly, in terms of infrastructure development, the government must invest in rural infrastructure (roads, water, electricity, digital connectivity, and social services) to unlock the aquaculture potential in underserved areas. Moreover, establishing a modern legal framework is essential. An appropriate legal regime should streamline licensing, acknowledge devolved roles, and minimize duplication while clearly distinguishing between aquaculture and capture fisheries.

437. In addition, there is a need for the promotion of research and development (R&D). This requires increased funding and the establishment of national aquaculture research centers focusing on species selection, disease control, and climate adaptation. Furthermore, the

integration of monitoring and evaluation (M&E) systems is vital. Robust M&E systems are necessary to track performance, identify biosecurity threats, and assess policy impact.

438. Land and water access must be addressed through the implementation of clear legal mechanisms and incentives that facilitate access to these critical resources for aquaculture. Alongside this, private sector enablement should be prioritized by enacting measures to attract private investment, mitigate risks associated with innovations, and create favorable conditions for value chain development.
439. In terms of stakeholder involvement, community engagement must be institutionalized by embedding public participation mechanisms in policy development and implementation, thereby acknowledging community rights and knowledge systems. Finally, public-private partnerships (PPPs) should be encouraged in research, extension services, infrastructure, and market development through clearly defined legal provisions.
440. On comparative Lessons from South Africa, it was noted that South Africa's Aquaculture Development Bill (2023) provides a targeted and strategic approach to aquaculture regulation. Its strengths encompass tiered licensing systems, transformation targets, aquaculture development zones (ADZs), aquatic disease control protocols, and participatory institutional structures. Therefore, Kenya can improve its legislation by adopting these mechanisms to promote inclusive, investment-friendly, and innovative aquaculture governance.
441. On recommendations based on best practices from South Africa, it was noted that Kenya should establish a comprehensive Aquaculture Development Act that emphasizes sector growth and sustainability. Further, an introduction of tiered licensing systems with streamlined procedures for low-risk or small-scale aquaculture is recommended. ~~Additionally, the establishment of Aquaculture Development Zones (ADZs) with government-funded infrastructure and environmental clearance would provide significant support to the sector. Public consultation should be mandated in licensing, policy planning, and spatial mapping processes.~~
442. Furthermore, establishing a national aquatic animal health authority equipped with surveillance, laboratory, and quarantine capabilities is crucial. Counties should also be empowered by utilizing intergovernmental coordination forums and implementing devolved regulatory timelines. In line with this, the Fish Levy Trust Fund should be revised to designate funding for innovation, training, and biosecurity systems. Lastly, enforcement powers must be limited while ensuring due process safeguards and including investor protection provisions.
443. In conclusion, it was noted that the Fisheries Management and Development Bill, 2023 represents a necessary modernization of Kenya's blue economy governance. However, in its current form, it risks deterring investment, stifling innovation, and overwhelming practitioners with excessive regulation. By adopting a more enabling legal framework inspired by South Africa's approach, Kenya can unlock the full potential of its aquaculture sector in alignment with Vision 2030 and the AU Blue Economy Strategy.

3.5.3 Lake Naivasha Basin Landscape Association (LANABLA)

Clause 2

444. Define the terms to read: - Fisheries: Means all activities relating to the management and utilization of fish resources and its environment starting from preproduction, production, processing until marketing and includes a place where fish is caught for commercial purposes.

Standing committee: Means an advisory or regulatory committee focused on maintaining and improving the quality standards of fish and fishery products.

Technical Committee: Means a committee tasked with formulating and overseeing the implementation of quality and safety standards for fish and fishery products.

Justification: The terms should be defined to make it easier to understand the intent and scope of legislation.

Committee Observation:

The amendment may not be adopted as fishery is already defined in the Bill.

Clause 11(1)(c)

445. Insert the words "one whom shall be a representative of the BMU at the National Level" immediately after public officers to read: - Five members, not being public officers, one whom shall be a representative of the BMU at the National Level openly appointed by the Cabinet Secretary for their long-term knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;

Justification: To articulate the issues of fisherfolks.

Committee Observation:

The amendment has been adopted with necessary modifications to provide for the category of members who shall not be public officers.

Clause 34(1)

446. Delete "May" and replace with "Shall" to read: - Each County shall develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution.

Justification: To make it mandatory for counties to develop the fisheries management plans.

Committee Observation:

The amendment was adopted for purposes of ensuring there is sustainable fisheries management at the county level.

Clause 37

447. Insert the following 7 sub-sections immediately after sub section 37(2) to read: -

"(3) A Beach Management Unit under this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108).

(4) A Beach Management Unit registered in accordance with this section may apply to the County Director of Fisheries for permission to participate in the conservation and management of a fishery:

(5) Provided no such application shall be made where there is an existing prior agreement or license in relation to that fishery.

(6) An application made in accordance with this section shall be in the prescribed form and shall provide-

- (a) a list of the members of the association and its address;
- (b) the Constitution of the association;
- (c) the association's financial regulations;
- (d) the area of fishery for which the association proposes to undertake conservation and management;
- (e) the association's proposals concerning-
 - (i) use of fishery resources;
 - (ii) methods of conservation of biodiversity;
 - (iii) methods of monitoring and protecting wildlife and plant populations and enforcing such protection; and
- (f) necessary. any other consideration the Director may deem

(7) Where the Director grants permission in accordance with this section, he/she may impose such conditions as it may deem fit including the development of fisheries co-management plan in accordance with this Act.

(8) The Director shall enter into Co-Management Agreement with BMU in respect to the fisheries co- management plan.

(9) There shall be a Beach Management Unit Network in a Fishery where more than one BMU share a common resource. The Umbrella Beach Management Unit in this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108)."

Justification: BMUs need to be legally registered and its network anchored in the law. Further, there is need to formalize and strengthen co-management working relationship between National government, county government and BMUs.

Committee Observation:

The amendments have been adopted with necessary modifications, further regulations are to be made for effective implementation of the provisions.

Clause 42

448. Insert a sub section immediately before sub section 42 (3) to read:- The Cabinet secretary shall develop regulations and Management plans to give guidelines on mesh Size for specific water bodies and fish species in the fresh water fisheries.

Justification: This shall ensure that mesh size shall take into consideration the characteristics of each fisheries thus ensuring its sustainable utilization.

Committee Observation:

The amendment has been adopted.

Clause 50 (1)

449. Insert a subsection above Sec 50(1) to read: - The Cabinet Secretary may, on the recommendation of the Director-General provide guidelines for: -

- (a) Fish landing stations
- (b) designated fishing ports, and
- (c) protected fish breeding grounds"

Justification: There is lack of guidelines for the establishment of fish landing stations, designated fishing ports, and protected fish breeding grounds.

Committee Observation:

The amendment has been adopted with necessary modification to provide for fish landing stations and designated fishing ports.

Clause 58 (2)

450. Insert a clause immediately after Sec. 58(2) to read: Sec. 58(3) the standing committee and a technical committee shall be composed of: -

- (a) Kenya Fisheries Service
- (b) Kenya Marine and Fisheries Research Institute
- (c) Kenya Bureau of Standards
- (d) County Government
- (e) Ministry of Agriculture, Livestock and Fisheries
- (f) Ministry of water and sanitation
- (g) Ministry of Health

Justification: It removes the ambiguity in establishing the committees.

Committee Observation:

The proposal was not accepted as different technical experts and agencies may be required at different times.

Clause 67 (2)

451. Delete "May" and replace with "Shall" to read: - The Director-General shall seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.

Justification: To make it mandatory for Director General to ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya.

Committee Observation:

The amendment was adopted to ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya for proposition of protection and conservation.

Clause 88 (1) (g)

452. Insert the following words immediately after previous "two years for artisanal, four years for semi-industrial and 6 years for industrial" to read:- within the previous two years for artisanal, four years for semi-industrial and 6 years for industrial, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, any relevant international conservation and management measures or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new owner(s), and the new owner(s) do not have a history of engaging in illegal, unreported or unregulated fishing;

Justification: The length of punishment following a conviction is disproportionately long. Amend to ensure that the penalties imposed are commensurate with the gravity of the infraction. Further, reduce the length of punishment to two years for artisanal offenses, 4 years for semi-industrial and 6 years for industrial as it seems reasonable as a measure of enforcing discipline and will help deter repeat offenses.

Committee Observation:

The amendment was not adopted for purpose of deterring the prohibited activities.

Clause 90 (6)

453. Amend to insert "not less than thirty-five thousand and" to read: A person who contravenes subsection (3), (4) or (5) commits an offense and shall be liable on conviction to a fine not less than thirty-five thousand and not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both.

Justification: For sustainability purposes, there's a need for minimum threshold to deter any repeat offenders.

Committee Observation:

The provision as per the Bill is sufficient.

Clause 98 (1)

454. Amend to abolish the fish marketing authority and instead establish a directorate in Kenya Fisheries Service to play this role so as to remove the duplication of roles, bureaucracy and wastage of resources.

Committee Observation:

The Committee has proposed to transfer the functions of the Fish Marketing Authority have been transferred to the Service.

Clause 124 (3)

455. Amend to read: A person who contravenes subsection (1) commits an offense and shall be liable on conviction to a fine not less than Fifty Thousand and not exceeding five hundred thousand or to a term of imprisonment not exceeding five years or to both.

Justification: For sustainability purposes, there's a need for a minimum threshold to deter any repeat offenders.

Committee Observation:

The provision as per the Bill is sufficient.

Clause 163 (1)

456. Insert "Except for Perishable items listed in Section 166(1)" immediately after items seized. To read: - Where a person is released without being charged or where prosecution is not instituted within thirty days after a person is charged, all items seized "Except for Perishable items listed in Section 166(1)" shall be returned to the person.

Justification: To account for items such as fish which might cause the state to incur unnecessary cost

Committee Observation:

The amendment is not necessary.

Clause 165 (1)

457. Insert the words immediately after this Act "shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered" to read: - Any item seized pursuant to this Act shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered into the custody of the Director-General.

Justification: Not all seized items are deemed to be under the custody of director general.

Committee Observation:

The amendment is not necessary.

Clause 165 (2)

458. Insert "inform of seizure notice signed by both parties" to read: - A written seizure notice signed by both parties shall be given to the person from whom any article or item was

seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.

Justification: For the notice to be signed by both parties to serve as seizure evidence.

Committee Observation:

The amendment is not necessary.

Clause 166 (2) (b)

459. Delete the words "in such other manner as he deems fit" and replace with the words: "In accordance to the applicable laws" to read: - Provided that if, after making all reasonable efforts, the Director-General is unable to sell the fish or other thing, or where such fish or other things are unfit for sale, he may dispose of the same in accordance to the applicable laws, including by destruction.

Justification: This removes biasness in how the DG disposes the seized items.

Committee Observation:

The amendment is not necessary.

Clause 178 (1)

460. Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- All fish found on board any fishing vessel, vehicle, aircraft or items which has been used in the commission of an offence under this Act shall unless the contrary is proved, be presumed to have been caught during the commission of that offence.

~~**Justification:** Mode of carriers are not inclusive and only focuses on fishing vessel.~~

Committee Observation:

The amendment is not necessary.

Clause 178 (2)

461. Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- All fish found on board any fishing vessel, vehicle, aircraft or items in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port as required pursuant to this Act, shall unless the contrary is proved, be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities.

Justification: Mode of carriers are not inclusive and only focuses on fishing vessel.

Committee Observation

The amendment is not necessary.

Clause 195

462. Delete words: "going on or remaining aboard any fishing vessel in the Kenyan fishery waters" and replace with "engaging in any fishing related activities within Kenya and Kenyan fishery waters" to read:- Where a person has been convicted of an offence against this Act, the court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from engaging in any fishing related activities within Kenya and Kenyan fishery water waters.

Justification: Anyone offences convicted under with illegal, unreported and unregulated fishing activities should be banned from engaging in any fishing related activities.

Committee Observation:

The proposal may be too punitive to entirely ban a person from engaging in any fishing related activities.

PART IV

4.0 COMMITTEE OBSERVATIONS AND FINDINGS

Upon its consideration of the Fisheries Management and Development Bill, 2023, the Committee made the following observations:

1. The Committee notes that fisheries management and development is a shared function between the national government and county government. The Fourth Schedule mandates the national government with the protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular fishing, hunting and gathering. Part 2 of the Fourth Schedule to the Constitution mandates Counties with function of agriculture, including fisheries.
2. The Fisheries sector in Kenya is governed under the Fisheries Management and Development Act, 2016, though key sections were declared unconstitutional in April 2023 for inadequate public participation, limiting its effectiveness. The orders granted by the court enabled the continued operation of various authorities and agencies established through the Act pending the hearing and determination of the Appeal. Consequently, the Fisheries Management and Development Bill (National Assembly Bills No. 29 of 2023) was published on 16th June, 2023 and read a first time on the Floor of the House on 6th July, 2023
3. The Committee observes that the Bill is largely aligned with the principles of sustainable resource management as enshrined in the Constitution of Kenya, particularly Articles 42 and 69 which provide for the right to a clean and healthy environment and the sustainable utilization of natural resources. However, the Committee notes that there is need for greater clarity in the delineation of functions between the National and County Governments in accordance with the Fourth Schedule of the Constitution, so as to avoid duplication or conflict in licensing, enforcement, and revenue collection within the fisheries sector.
4. The Bill introduces enhanced monitoring, control and surveillance mechanisms aimed at addressing illegal, unreported and unregulated (IUU) fishing. However, the effectiveness of these provisions will largely depend on the availability of adequate funding, strengthened inter-agency coordination, deployment of appropriate surveillance technology, and sustained capacity building at both the national and county levels to ensure proper implementation and enforcement.
5. The Committee observes that the Bill provides an enabling framework for private sector participation and aquaculture development, consistent with national development priorities under Kenya Vision 2030. Nevertheless, stakeholders emphasized the need for clear investment incentives, transparent and streamlined licensing procedures, and adequate safeguards to protect small-scale fishers from possible displacement or unfair competition by large commercial operators.

6. The Committee observes that the Bill establishes revenue collection frameworks through licensing and fisheries-related levies; however, clarity is required regarding revenue-sharing between the National and County Governments, the allocation of revenues towards conservation and local development initiatives, and the establishment of robust transparency and accountability mechanisms to ensure proper management and utilization of the funds.
7. In compliance with Article 118 of the Constitution and relevant Standing Orders of the National Assembly, the Committee conducted extensive public participation forums across multiple regions, including Turkana, Kisumu, Naivasha and Coast counties. The submissions reflected divergent stakeholder views, with significant emphasis on legal clarity, cost implications of licensing fees, and the need for interventions that bolster local economic empowerment. The Committee observes that public participation was instrumental in highlighting regional nuances within the fisheries sector, particularly the distinct needs of inland and marine fisheries, as well as the emerging role of aquaculture.
8. A recurring theme in stakeholder submissions was the issue of double licensing, where fishers incur separate license fees from both National and County Governments. The Committee observes that the Bill lacks clear mechanisms to prevent double taxation and does not provide a mutual recognition framework between levels of government. Additionally, stakeholders opposed the proposed fee increases and highlighted the need for procedural safeguards, including mandatory public participation before fee revisions, to ensure fairness and transparency.
9. There was strong consensus among stakeholders for statutory recognition of Beach Management Units as key community governance structures in fisheries management. Stakeholders highlighted that BMUs play an essential role in local resource oversight, reporting, and community compliance. The Committee observes that the Bill's current reliance on regulations to establish and govern BMUs is insufficient and that statutory entrenchment would provide legitimacy and sustainability to their operations, particularly in cross-county water bodies such as Lake Turkana.
10. The Committee observes that the Bill's provisions on closed seasons and breeding zones are overly permissive, lacking mandatory criteria and clear scientific benchmarks. Stakeholders emphasized the need for mandatory closed seasons that are informed by robust scientific data and require advance notice and stakeholder engagement. Inadequate definitions of key terms such as breeding zones were noted as undermining enforceability, particularly in inland and marine ecosystems.
11. There is need for clearer regulatory frameworks for aquaculture. The Bill inadequately addresses environmental safeguards and modern aquaculture practices, which are critical for sustainable growth of the sector. The Committee observed the need for explicit provisions for Environmental Impact Assessments (EIAs), environmental protection bonds, and stronger enforcement measures to address escapement, pollution, and chemical use in aquaculture operations.

12. The Committee observes that the Bill is silent on accessibility for Persons with Disabilities (PWDs), language inclusivity, and capacity-building requirements for fishers prior to licensing. Stakeholder proposals underlined the importance of translating the Bill into Kiswahili and Braille to enhance accessibility, and recommended mandatory civic education and professional training as prerequisites for licensing.
13. The Committee observes that Kenya is bound by regional agreements and obligations—particularly those relating to shared fisheries resources and management frameworks—and that the Bill does not sufficiently reflect these obligations. In particular, stakeholder engagements highlighted the need for improved cooperation with regional bodies and alignment with protocols on sustainable exploitation, conservation, and enforcement.
14. The Committee also observed the need for an enhanced role for the Kenya Coast Guard Service in enforcement and monitoring, consistent with the powers conferred under section 8 and 9 of the Kenya Coast Guard Service Act, Cap. 200 and more efficient coordination between the Kenya Coast Guard Service and MCS unit established in the Bill for better protection of fishers and Kenya fishery waters.
15. Committee observed a lack of clear mechanisms for appeals and dispute resolution arising from regulatory decisions under the Bill. Stakeholders recommended the establishment of an independent tribunal or appeal structure to ensure that grievances arising from licensing, enforcement, and regulatory interpretations are addressed fairly, efficiently and in accordance with the rule of law.

PART V

5.0 COMMITTEE RECOMMENDATION

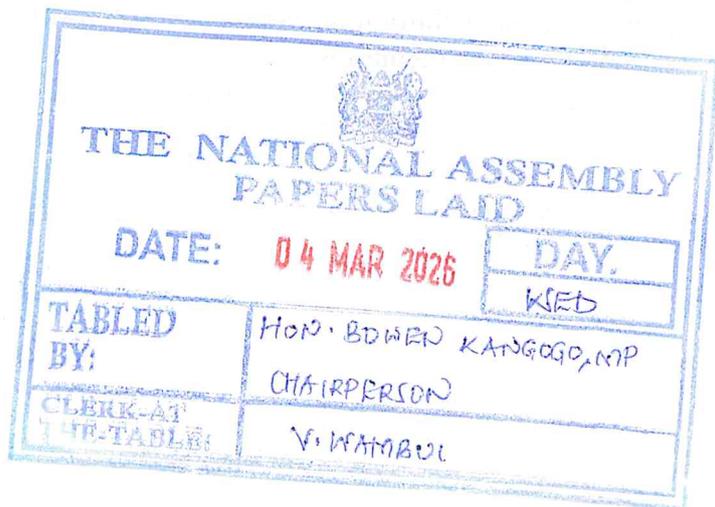
The Committee having considered the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) recommends that the House APPROVES the Bill with the amendments contained in the SCHEDULE OF AMENDMENTS forming PART SIX of this report.

SIGNED..........DATE..........

HON. BOWEN KANGOGO, CBS, MP

(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION.



PART VI

6.0 SCHEDULE OF AMENDMENTS

In view of the observations made, the Committee proposes the following amendments to the Bill-

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) by deleting the definition of “Authority”;
- (b) by deleting the definition of “Board of Directors”;
- (c) by deleting the definition of “Council”;
- (d) by deleting the definition of the word “authorized officer” and substituting therefor the following new definition—
 - “authorized officer” means a fisheries officer, fish inspector, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 17;
- (e) by deleting the definition of the word “foreign fishing vessel” and substituting therefor the following new definition—
 - “Foreign fishing vessel” means a fishing vessel not registered in Kenya;
- (f) by deleting the definition of the word “subsistence fishing” and substituting therefor the following new definition—
 - “subsistence fishing” means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their dependents or community;
- (g) by deleting the definition of the word “surveillance” appearing first in time
- (h) in the definition of the word “territorial waters” by deleting the words “and includes the territorial sea”;
- (i) by deleting the definition of the word “transshipment” and substituting therefor the following new definition—
 - “Transshipment” means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed.”
- (j) by inserting the following new definitions in their proper alphabetical sequence—
 - “commercial fishing” means fishing for sale, barter, or trade;
 - “control” means the specification of the terms and conditions under which resources can be harvested.



THE NATIONAL ASSEMBLY

13TH PARLIAMENT - FIFTH SESSION - 2026

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

MEMBERS ATTENDANCE SCHEDULE

DATE: Sat 21st Feb 2026 START: 2:03 PM END: 4:30 PM

VENUE: GARDEN SUITE 1 B 2, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY

AGENDA: CONSIDERATION & ADOPTION OF THE COMMITTEE REPORT ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

O.	NAME	SIGNATURE
1	Hon. Bowen Kangogo, MP, CBS – Chairperson	
2.	Hon. Kemero Maisori Marwa Kitayama, MP, CBS – Vice- Chairperson	
3.	Hon. Eng. Tandaza Kassim Sawa, MP, CBS	
4.	Hon. Buyu Rozaah Akinyi, MP, CBS	
5.	Hon. William Kamket, MP, CBS	
6.	Hon. Muiruri Stanley Muthama, MP	
7.	Hon. Eng. Nzengu Paul Musyimi, MP	
8.	Hon. Eng. Nebart Bernard Muriuki, MP	
9.	Hon. (Dr.) Osogo Bensuda Joyce Atieno, MP	
10.	Hon. Gachagua George, MP	
11	Hon. Mohamed Abdikadir Hussein, MP	
12.	Hon. Mnyazi Amina Laura, MP	
13.	Hon. Eric Wamumbi, MP	
14.	Hon. Dorothy Muthoni Ikiara, MP	
15.	Hon. Adow Mohamed Aden, MP	

Forwarded by:

Signed.....Date.....

Mr. Mohamed Boru

First Clerk Assistant – Committee Clerk

Approved by:

Signed.....Date.....

Mr. Abenayo Wasike,

Principal Clerk Assistant II/ Head of Department- Productive Sector

Directorate of Departmental Committees

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