IN EXERCISE of the powers conferred by section 3(1) of the
State Corporations Act, I, Uhuru Kenyatta, President and Commander-
in-Chief of the Kenya Defence Forces, make the following Order—

THE KENYA FISHING INDUSTRIES CORPORATION ORDER,
2018

1. This Order may be cited as the Kenya Fishing Industries
Corporation Order, 2018.

2. In this Order, unless the context otherwise requires—
   “Board” means the Kenya Fishing Industries Corporation Board
   established under paragraph 6;
   “Cabinet Secretary” means the Cabinet Secretary for the time
   being responsible for matters relating to fisheries;
   “Chief Executive Officer” means the Chief Executive Officer of
   the Corporation appointed under paragraph 12;
   “fish” has the meaning assigned to it under the Fisheries
   Management and Development Act;
   “fishery resources” has the meaning assigned to it under the
   Fisheries Management and Development Act;
   “fishing” has the meaning assigned to it under the Fisheries
   Management and Development Act;
   “fishing related activity” has the meaning assigned to it under the
   Fisheries Management and Development Act;
   “high seas” has the meaning assigned to it under the Fisheries
   Management and Development Act; and
   “Kenya fishery waters” has the meaning assigned to it under the
   Fisheries Management and Development Act.

3. (1) There is established a state corporation to be known as the
   Kenya Fishing Industries Corporation.
   (2) The Corporation shall be a body corporate with perpetual
   succession and a common seal, and which shall in its corporate name.
   be capable of —
(a) suing and being sued;
(b) taking, purchasing or otherwise acquiring, holding, charging
or disposing of moveable and immovable property; and
(c) doing or performing such other things or acts necessary for
the proper performance of its functions which may lawfully
be done by a body corporate.

4. The headquarters of the Corporation shall be in Mombasa.

5. (1) The Corporation shall—

(a) exploit fishery resources in the Kenya fishery waters and
high seas by promoting the establishment, development and
efficiency of businesses engaged in the fishing and fishing
related activities;
(b) develop and operate facilities and establishments for the
exploitation of fishery resources;
(c) acquire, hold or dispose of assets including equipment and
accessories necessary for the capture, preservation,
processing, selling and marketing of fish and fish products;
(d) formulate mechanisms for carrying out the functions under
sub subparagraphs (a), (b) and (c); and
(e) undertake any other activities necessary or incidental to
achieving the functions of the Corporation.

(2) In carrying out its functions, the Corporation shall, in addition
to the national values and principles of governance set out in Article 10
of the Constitution, be guided by other principles including efficiency,
effectiveness, value for money and environmental protection.

(3) The Corporation shall comply with the relevant laws and
policies relating to fisheries and fishing related activities.

6. (1) The management of the Corporation shall vest in a Board
which shall consist of—

(a) a non-executive chairperson appointed by the President;
(b) the Principal Secretary responsible for matters related to
fisheries or a representative nominated in writing;
(c) the Principal Secretary responsible for the National Treasury
or a representative nominated in writing;
(d) the Attorney General or his representative;
(e) not more than four other members, not being public officers,
appointed by the Cabinet Secretary; and
(f) the Chief Executive Officer who shall be an ex-officio
member of the Board.

(2) A person is qualified for appointment under subparagraph
(1)(a) and (e) if such person—
(a) possesses a degree from a university recognized in Kenya in —

(i) natural resource or environmental management, development or science;
(ii) fisheries studies including fisheries governance, management, development or science;
(iii) marine affairs;
(iv) port management;
(v) aquatic science; or
(vi) any other matters related to the functions of the Corporation;

(b) has knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;

(c) has proven business management or other relevant professional experience;

(d) has served in a position of senior management for a period of at least six years; and

(e) meets the requirements of Chapter Six of the Constitution.

(3) A member of the Board shall, subject to such conditions as may be specified in their instrument of appointment, hold office for a term not exceeding three years and shall be eligible for reappointment for one further term.

7. (1) The office of the chairperson or a member shall become vacant if the holder —

(a) dies;
(b) is absent from three consecutive meetings of the Board without reasonable cause;
(c) resigns from office by notice in writing addressed to the appointing authority;
(d) is unable to perform the functions of the office arising out of physical or mental infirmity;
(e) is negligent or incompetent in the performance of his or her functions;
(f) is adjudged or otherwise declared bankrupt by a competent court;
(g) violates Chapter Six of the Constitution; or
(h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.

(2) Where a vacancy occurs in the membership of the Board under subparagraph (1), the appointing authority shall appoint a new member in accordance with the provisions of this Order.
(3) An appointment to fill a vacancy shall be for the remainder of the term of the member being replaced and the new member shall be eligible for reappointment.

8. The functions of the Board shall be to —

(a) monitor and evaluate the implementation of strategies, policies and plans of the Corporation;

(b) ensure that a proper and functional management structure is in place and that the structure maintains corporate integrity, reputation and responsibility;

(c) ensure that the Corporation complies with all the relevant laws, regulations, governance practices, accounting procedures and auditing standards;

(d) monitor performance and ensure effective and efficient utilization of the Corporation's resources;

(e) consider and approve the Corporation's budget;

(f) approve the appointment criteria and the terms and conditions of service of staff; and

(g) carry out any other activity which in the Board's opinion, will promote and facilitate the development of the objects of the Corporation.

9. The Board shall have all the powers necessary for the proper performance of the functions of the Corporation and, in particular, the Board shall have powers to —

(a) administer the property and funds of the Corporation in a manner and for the purposes which shall promote the interests of the Corporation but the Board shall not charge or dispose of immovable property of the Corporation except in accordance with the Public Procurement and Asset Disposal Act;

(b) receive on behalf of the Corporation, donations, endowments, gifts, grants or other moneys and make disbursements there from to the Corporation or other bodies or persons;

(c) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Corporation is established;

(d) open a banking account or banking accounts for the funds of the Corporation;

(e) invest any moneys of the Corporation not immediately required in furtherance of its objects;

(f) appoint, train, discipline, remove and make provision for the welfare of members of staff of the Corporation;
(g) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board; and

(h) undertake any other activities as may be necessary for the performance of its functions and the attainment of the purposes of the Corporation.

10. (1) The business and affairs of the Board shall be conducted in accordance with section 8 of the Act.

(2) Except as provided in the Act, the Board may regulate its own procedure.

11. (1) There shall be a Chief Executive Officer of the Corporation who shall be appointed after a competitive recruitment process on such terms and conditions as shall be determined the Board.

(2) A person is qualified for appointment as the Chief Executive Officer of the Corporation if such person—

(a) possesses a degree from a recognized university in —

(i) natural resource or environmental management, development or science;

(ii) fisheries studies, including fisheries governance, management, development or science;

(iii) aquatic science; or

(iv) any other related field;

(b) has a least seven years working experience in a senior position in matters relevant to the functions of the Corporation; and

(c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall —

(a) subject to the direction of the Board, be responsible for the overall direction, organization and management of the affairs of the Corporation; and

(b) be responsible for the supervision and discipline of the staff of the Corporation.

(4) The Chief Executive Officer shall hold office for a term not exceeding three years and shall be eligible for reappointment for a further term.

12. (1) There shall be a Corporation Secretary of the Corporation who shall, subject to this section, be appointed by the Board, on such terms and conditions of service as the Board may determine.

(2) A person shall not be appointed as Corporation Secretary unless such person meets the requirements set out in the law governing the practice of public secretaries.

(3) The Corporation Secretary shall, subject to the direction of the Board be responsible for —

(a) coordinating and circulating the preparation of Board papers to members of the Board;
(b) taking minutes in meetings of the Board and ensuring the implementation of resolutions of the Board;

c) ensuring safe custody of the minutes, decisions and documents of the Board;

d) ensuring the safe custody of the seal of the Corporation;

e) drafting legal documents on behalf of the Corporation;

f) attending proceedings on behalf of the Corporation;

g) advising the Board on any legal matters; and

h) any other matter that the Board may direct.

13. (1) The Corporation shall employ such professional, technical and administrative officers and support staff, as the Board may consider necessary for the discharge of its functions under this Order.

(2) The Board may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the Corporation.

(3) All members of staff of the Corporation shall be subject to the general direction of the Board and the Chief Executive Officer.

14. (1) The common seal of the Corporation shall be kept in the custody of the Corporation and shall not be affixed to any instrument or document except as may be generally or specifically authorised by the Board.

(2) The common seal of the Corporation shall be authenticated by the signature of the Chief Executive Officer and the Chairperson or of one other member of the Board authorized by the Board on their behalf.

(3) All documents, other than those required by law to be under seal and all decisions of the Board, may be authenticated by the signature of the Chairperson or, in the case of a decision taken at a meeting at which the Chairperson was not present, by the signature of the person presiding at such meeting.

15. The funds of the Corporation shall include—

(a) monies appropriated by Parliament for purposes of the Corporation;

(b) monies that accrue or vest in the Corporation in the course of the performance of its functions under this Order;

(c) gifts, grants or donations made to the Corporation; and

(d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of this Corporation.

16. The financial year for the Corporation shall be a period of twelve months ending on the thirtieth June in each year.

17. The annual estimates of the Corporation shall be prepared in accordance with the Public Finance Management Act.
18. (1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Corporation.

(2) The accounts of the Corporation shall be audited and reported upon in accordance with the Public Audit Act and the Public Finance Management Act.

19. (1) The Board may invest any of the funds of the Corporation which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Corporation.

20. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Corporation for the immediately preceding financial year.

(2) The Cabinet Secretary shall cause to be laid the annual report before the National Assembly within three months of the day the National Assembly sits after the report is presented to the Cabinet Secretary.

Dated the 14th November, 2018.

UHURU KENYATTA,
President.