

Final Technical Report

FINALISING THE CARIBBEAN COMMON FISHERIES POLICY

Project ref. N° CU/PE1/BZ/10/001

Region: CARIBBEAN

Countries: Antigua and Barbuda, Barbados, The Bahamas, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago.

Date 31 May 2011

A project implemented by:



AFRICA



CARIBBEAN



PACIFIC



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"Strengthening Fisheries Management in ACP Countries"



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*"Strengthening Fisheries Management in ACP
Countries"*



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**Countries: Antigua and Barbuda, Barbados, The Bahamas, Belize,
Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St.
Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname,
Trinidad and Tobago**

This assignment was implemented by IBF International Consulting.

Team composition:

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Team Leader

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- The Governments of Barbados, Guyana, Saint Lucia, Suriname and Trinidad and Tobago for their kind accommodations during the country consultations, and for facilitating access to high-level officials.
- All delegates at the Multi-Disciplinary Workshop, for their helpful inputs and constructive approach to working with the Consultants throughout the Workshop.



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Abbreviations and acronyms

ACS	Association of Caribbean States
ACP	African, Caribbean and Pacific
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum of African, Caribbean and Pacific States
CARISEC	CARICOM Secretariat
CERMES	Centre for Resource Management and Environmental Studies
CFP&R	Common Fisheries Policy and Regime
CFRAMP	CARICOM Fisheries Resource Assessment and Management Programme
CFU	CARICOM Fisheries Unit
COFCOR	Council for Foreign and Community Relations
COTED	Council for Trade and Economic Development
CRFM	Caribbean Regional Fisheries Mechanism
EEZ	Exclusive Economic Zone
EU	European Union
FAO	Food and Agricultural Organization of the United Nations
FFO	Fisher Folk Organization
ICCAT	International Commission for the Conservation of Atlantic Tunas
NFO	National Fisher Folk Organization
NGO	Non-Governmental Organization
OECS	Organization of Eastern Caribbean States
RFO	Regional Fisher Folk Organization
UN	United Nations
UWI	University of the West Indies
WECAFC	Western Central Atlantic Fishery Commission
WIDECAST	Wider Caribbean Sea Turtle Conservation Network



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A project implemented by IBF International Consulting



Executive summary

This Final Technical Report provides an overview of activities, progress and achievements under the project “Finalising the Caribbean Common Fisheries Policy”, funded under the EU ACP Fish II Programme. The project commenced in February 2011, following contract signature in December 2010, and was completed successfully in May 2011. The overall objective of this project was to provide legal drafting and advisory assistance to the Caribbean Community process to adopt a legal agreement to establish a Common Fisheries Policy for the Caribbean region, a process which commenced in 2003. In essence, the task of the Consultants was to facilitate the process of taking the existing draft Agreement from its present position to a stage at which it could be accepted by the CRFM Ministerial Council and enter to formal process of submission to the CARICOM Heads of Government.

The project comprised several key stages:

- [1] An initial briefing in Belize in February 2011 with the regional fisheries organisation, CRFM, designed in particular to bring the Consultants up to date with the current situation in the CFP&R process.
- [2] Based on these discussions, and a review of all reading materials provided by CRFM (including the written submissions from certain countries) to produce a compromise draft which could form the basis of discussions during the country consultations.
- [3] A round of country consultations, taking in Barbados, Guyana, Saint Lucia, Suriname and Trinidad and Tobago, in March 2011, during which the Consultants could discuss country concerns in more detail, with a view to preparing a second compromise draft for the Multi-Disciplinary Workshop.
- [4] Based on the consultations, the preparation of a second compromise draft for presentation at the Multi-Disciplinary Workshop, together with detailed background explanations for the changes proposed.
- [5] The organisation and holding of a regional Multi-Disciplinary Workshop, in Georgetown, Guyana, in April 2011, involving key stakeholders such as government officials, regional experts and representatives of fisherfolk to review and provide comments to assist legal drafters in finalizing the Agreement for submission to the Ministerial Council for endorsement.
- [6] Thereafter, additional technical assistance as required to support the submission and further refinement of the Agreement for presentation at the CRFM Ministerial Council in May 2011.

During the CRFM Ministerial Council, the draft text prepared by the consultants was adopted by consensus and without comment. The project thereby successfully contributed to the achievement of the primary objective of the process. The main contributions by the project could be considered to be:

- independent technical analysis of the draft text (free of “political baggage” and with wide understanding of international best practice)



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- isolation of the key policy issues, to facilitate easier resolution of minor issues and technical/drafting issues – in particular, the consultants were able to identify a number of clarifications and purely drafting issues which removed a number of previously identified issues
- preparation of two different draft texts to facilitate discussion and agreement at both the consultation phase and at the Workshop phase
- drafting of amendments in-situ at the Workshop, which enable participants to be able to view instantly the implications of proposals and alternatives
- provision of legal views at the Workshop on the interpretation of the text, which enabled understanding and facilitated agreement.

Next steps

Although the approval of the draft Agreement by the CRFM Ministerial Council is a major achievement, and a major step in the process, it is not the end of the process. In brief, the steps towards formal adoption, and potentially entry into force, of the Agreement will be as follows:

1. Submission of draft Agreement to Council for Trade and Economic Development (COTED) for consideration.
2. Consideration of the document by the Legal Affairs Committee (Attorneys-General of the CARICOM Members).
3. Reference to the Community Council in order to organize the Agenda of the Heads meetings.
4. Consideration of the document by the Conference of Heads of Government.



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[1] Background

This Final Technical Report provides an overview of activities, progress and achievements under the project “Finalising the Caribbean Common Fisheries Policy”, funded under the EU ACP Fish II Programme. The project commenced in February 2011, following contract signature in December 2010, and was completed successfully in May 2011. The activities described in this report were carried out by a team from IBF Consulting, Belgium, comprising two key experts – Chris Hedley (Director, Globe Law Group), Team Leader and Key Expert 1 and Winston McCalla (independent consultant), Key Expert 2 – with administrative support from Patrick Messina, of IBF.

The overall objective of this project was to provide legal drafting and advisory assistance to the Caribbean Community process to adopt a legal agreement to establish a Common Fisheries Policy for the Caribbean region. The project intervention came at a critical time in a process which had a long history. The initiative to prepare a Common Fisheries Policy began at the Fourteenth Inter-Sessional Meeting of Conference of Heads of Government of the Caribbean Community, held in Trinidad and Tobago in 2003, when the Conference issued a mandate for the preparation of a Common Fisheries Policy and Regime for the exploitation and conservation of regional fisheries resources. After six years of effort, at all levels (technical, regional, ministerial, etc.), the process was lacking progress and, in January 2009, the CRFM Ministerial Council decided to separate the development of the Common Fisheries Policy and the Implementing Regime and to prepare them sequentially, focusing first on elaboration of the Policy.

Following this decision, progress was more rapid and a *Draft Agreement Establishing the Caribbean Community Common Fisheries Policy* was elaborated and developed through technical working groups and meetings of the CRFM Forum and CRFM Ministerial Council in 2009 and 2010. However, at the stage of intervention by the project there were still a number of outstanding concerns from some countries – potentially requiring substantial amendments to the text. In particular, written submissions has been received from the governments of Barbados, Suriname and Trinidad and Tobago and from WIDECAST.

In essence, the task of the Consultants was to facilitate the process of taking the existing draft Agreement from its present position to a stage at which it could be accepted by the CRFM Ministerial Council and enter to formal process of submission to the CARICOM Heads of Government.

[2] Approach to the assignment

The project comprised several key stages for the Consultants:

- [1] Initial briefing with CRFM, designed in particular to bring the Consultants up to date with the current situation in the CFP&R process.
- [2] Based on these discussions, and a review of all reading materials provided by CRFM (including the written submissions from the countries, mentioned above) to produce a compromise draft which could form the basis of discussions during the country consultations.



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- [3] A round of country consultations, to include Barbados, Guyana, Saint Lucia, Suriname and Trinidad and Tobago, during which the Consultants could discuss country concerns in more detail, with a view to preparing a second compromise draft for the Multi-Disciplinary Workshop.
- [4] Based on the consultations, the preparation of a second compromise draft for presentation at the Multi-Disciplinary Workshop, together with detailed background explanations for the changes proposed.
- [5] The holding of a regional Multi-Disciplinary Workshop involving key stakeholders including government officials, regional experts and representatives of fisherfolk to review and provide comments to assist legal drafters in finalizing the Agreement for submission to the Ministerial Council for endorsement.
- [6] Thereafter, additional technical assistance as required to support the submission and further refinement of the Agreement for presentation at the CRFM Ministerial Council.

Underpinning each of these activities were a number of principles, fundamental to the Consultants' approach:


- **Independence:** the Consultants' had no individual preferences or subjectivities and could approach the assignment objectively, and with independence.
- **Technical assistance:** the Consultants were intervening at the technical level, and not at the political or diplomatic level, and sought as far as possible to leave decisions of a substantive nature to the country participants.
- **No reinvention of the wheel:** it was recognised that much progress had already been achieved in the process, that there were already substantial areas of agreement and that the text was at an advanced stage. The Consultants therefore understood the needs not to endanger the level of agreement that existed and not to open previously resolved questions. Therefore, it was determined not to depart too extensively from the text that already existed, and the agreements that had already been reached.

[3] Comments on Terms of Reference

No comments are provided on the Terms of Reference, which were technically sound and implemented in full.

[4] Organisation and Methodology

[4a] Delivery of Terms of Reference

No.	Activities	Delivery
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1.1	Briefing by the ACP Fish II Programme and the CRFM	The Consultants visited the CRFM Secretariat from 20-24 February and met with the Director, Executive Director and other staff and with the ACP Fish II Regional Manager.
1.2	Review and prepare recommendations for refinement of draft Agreement establishing the Common Fisheries Policy based on comments received from the countries and other stakeholders	The Consultants prepared an initial redraft for the purpose of the consultations, and then produced a further revised draft for the Workshop.
1.3	Facilitate a three days regional multi-disciplinary Workshop involving fisheries, foreign affairs and legal expertise from the participating states supported by experts from Regional and International organizations connected with the fisheries sector, and private sector representatives (fisher folk organizations and other NGO)	This took place in Georgetown, Guyana from 13-15 April.
1.4	Visit at least 5 participating states (based on discussions with CRFM) to discuss and settle substantive and drafting concerns.	Visits to Barbados, Guyana, Saint Lucia, Suriname and Trinidad and Tobago took place from . In addition, the Consultants visited officials from Belize during the inception visit.
1.5	Preparation of an Interim Technical Report which includes the outcome of the workshop and visits to Participating States.	The ITR was delivered on 16 May.
2.1	Prepare and circulate draft text of legal agreement (including updates and resolved issues) to Participating States and CRFM for comments.	The draft text was circulated immediately after the Multi-Disciplinary Workshop (16 April). Further comments were not necessary as the text had been adopted by consensus at the Workshop.
2.2		The text agreed at the Workshop, plus one amendment requested by the CARICOM



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<p>Finalize draft text of legal agreement and make presentation at the CRFM Ministerial Council (Ministers responsible for Fisheries).</p>	<p>Foreign Ministers (COFCOR), was presented to the Ministerial Council on 20 May.</p>
<p>2.3 Incorporate comments of the Ministerial Council in the final version of the CFP.</p> <p>Preparation of a Final Technical Report.</p> <p>As part of the visibility and public awareness programme on the benefits of the CFP to be developed, experts will be asked to interpret and explain legal concepts and clarify aspects of the policy.</p>	<p>The Ministerial Council adopted the draft text by consensus and without comment.</p> <p>The FTR was delivered on 25 May.</p>

[4b] Conduct and details of the assignment

As previously noted, the main tasks carried out during the project were:

- Preparatory work, including technical review of the existing draft.
- Inception meeting in Belize with Caribbean Regional Fisheries Mechanism and the ACP Fish II Regional Coordinating Unit for the Caribbean.
- Round of country visits to five countries (Barbados, Guyana, St Lucia, Suriname, Trinidad and Tobago), as an initial consultation exercise (including preparation of an updated working draft).
- Adaptation of the working draft for the Workshop, and preparation of a working paper for the Workshop.
- Organisation of and attendance at the Multi-Disciplinary Workshop, in Guyana.
- Finalising of the draft text for submission to the CRFM Forum, the Ministerial Council and other forums.
- Presentation of the draft text at the CRFM Ministerial Council.

Inception meeting

The two Key Experts met with staff from the Caribbean Regional Fisheries Mechanism Secretariat (Hugh Saul, Executive Director; Milton Haughton, Deputy Executive Director; and Delmar Angel Lanza, Manager Finance and Administration) and with Dr Sandra Grant, ACP Fish II Regional Manager for the Caribbean in Belize City, Belize from 21 to 24 February.



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The Key Experts were given an extensive briefing by the Deputy Executive Director on the background to the Caribbean CFP process, and discussed with him the future direction of the project. The key messages for the Key Experts were: (1) there was a certain degree of agreement around the text as presented to the Second Special Meeting of the CRFM Ministerial Council in St Lucia, July 2010; (2) the task was to try to accommodate some outstanding comments, in particular expressed by three countries (Barbados, Suriname, Trinidad and Tobago); and (3) on this basis, it was agreed to prepare a revised draft Agreement text in advance of the round of country consultations which did not depart too extensively from the July 2010 draft.

In order to facilitate their preparation, the Key Experts were provided with a full set of documents by the CRFM Secretariat providing a comprehensive background to the CFP process.

Additionally, during this mission visits were arranged by CRFM to meet Belize's Permanent Secretary for Agriculture and Fisheries, and senior officials from the Belize Department of Fisheries.

Pre-Workshop Consultations

The Key Experts, assisted by Mr Milton Haughton of CRFM, undertook a series of visits to 5 countries in order to consult with relevant officials prior to the Multi-Disciplinary Workshop. The following visits were made:

- Barbados (11 March)
- Guyana (14-15 March)
- St Lucia (17-19 March)
- Suriname (19-22 March)
- Trinidad and Tobago (24-25 March).

In each case, the meetings were both highly constructive and highly instructive. Open discussions were held with senior officials from the countries visited, which greatly informed the Key Experts analysis and approach.

A brief review of each mission follows. The reviews do not include a discussion of the outcomes of individual consultations, which – although not strictly confidential – are regarded as sensitive. However, an overview of the discussions is provided at the end of this section.

Barbados

In Barbados a joint meeting was held with the Chief Fisheries Officer and representatives of the Attorney General's Department and the Ministry of Foreign Affairs. The consultants also had a country meeting with the Permanent Secretary for the Ministry of Agriculture, as well as the senior officials of the Ministry.

Guyana (including CARICOM Secretariat and EU Delegation)



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Meetings were held with the Permanent Secretary, Ministry of Agriculture, the Chief Fisheries Officer, a legal adviser from the Ministry of Agriculture and also a representative from the private sector.

During this mission, the Consultants also visited the headquarters of CARICOM and met with Ambassador LaRocque, Assistant Secretary General, and Ms Ali, General Counsel, in order to update them on the process and the next steps.

Finally, the Consultants also met with the Head of the Delegation of the European Union to Guyana, Suriname, Trinidad & Tobago, Aruba and Netherlands Antilles, Ambassador Geert Heikens, and members of his staff in order to inform the Delegation of the process.

Suriname

The Consultants had detailed meetings with the Director of Fisheries, Ministry of Agriculture and all senior members of his staff, and had detailed discussions on all aspects of the draft Agreement. The consultants also met with the Permanent Secretary, Ministry of Agriculture and senior staff.

St. Lucia (including OECS)

Meetings took place with officials of the St. Lucia Government, as well as OECS officials. For St. Lucia the Minister of Agriculture (Ag), the Permanent Secretary the Chief Fisheries Officer and the Deputy Chief Fisheries Officer were present. The OECS Secretariat had two representatives.

Trinidad and Tobago

The Consultants had a three-day meeting with the representative of the Government of Trinidad and Tobago. These representatives included Director of Fisheries and senior staff, head Legal Section Ministry of Foreign Affairs and staff as well as a representative of the Attorney General's Department.

Overview of discussions

The discussions that took place during the consultation exercise were varied. Whilst on many areas, most countries shared a similar position a number of key issues emerged on which there were substantial differences of view between some countries, including the legal form of the agreement, the role of the CRFM, the scope of membership/participation (including whether the agreement should be a "Caribbean" or a "CARICOM" agreement) and on the provisions on access to fisheries resources.

The consultants recognized that some of the issues raised in the consultations could be *resolved* by new drafting suggestions, future discussions on some issues could be *facilitated* by new drafting suggestions or alternatives while other issues required consideration at the policy level and could *not be resolved* by legal drafting. Nevertheless, even in the latter case the consultants recognized they had a role to play in providing legal advice and by assisting in the drafting of preferred solutions.



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Multi-disciplinary Workshop

In order to prepare for the Multi-Disciplinary Workshop, the Consultants produced a new draft of the proposed Agreement text and included this in a working paper which set out the background to the process and their approach, and compared the proposed updated version with the July 2010 version. The updated draft was developed significantly from the July 2010 version, whilst trying as far as possible to remain faithful to that earlier version. The draft text was prepared as a “stepping stone” intended to enable participants at the Multi-Disciplinary Workshop to further discuss the text and get from where they were in the July 2010 version to where they needed to be to reach agreement. The Workshop Paper is reproduced in Appendix 3.

The Multi-Disciplinary Workshop on Finalising the Caribbean Common Fisheries Policy, was organised by the Consultants, CRFM and ACP Fish II at the Pegasus Hotel, Georgetown, Guyana. More than 60 delegates, invited guests and experts participated, including senior officers from Ministries responsible for Foreign Affairs, Fisheries Departments and Legal Departments of the CARICOM Member States, the CARICOM Secretariat, CRFM Secretariat, OECS Secretariat, University of the West Indies and the Regional Network of Fisher Folk Organizations (the List of Participants is reproduced in Appendix 2). The objectives of the Multi-disciplinary workshop were to review and finalize a Draft Common Fisheries Policy for the Caribbean Community for consideration by the CRFM Ministerial Council (Ministers responsible for fisheries) at its Special Meeting in May 2011.

The meeting provided an opportunity for the members of the group to:

1. Discuss and clarify concerns
2. Negotiate and arrive at agreement on the content of the draft agreement
3. Propose wording for the provisions of the draft agreement
4. Complete the Draft Agreement for submission to the Ministers for consideration.

The workshop undertook its work through plenary discussions, moving through the revised draft agreement, article by article taking into consideration the revisions that had been made over the May 2010 version by the Key Experts based on their technical review and earlier consultation with and input from some member States. Additionally, in an attempt to reach consensus on some of the issues where participant views appeared to remain quite divergent, two working groups were established. The second of these comprised Antigua and Barbuda, Barbados, Belize, Trinidad and Tobago, the CRFM Secretariat and the Key Experts, and dealt with Articles 9 to 17.

At the conclusion of the meeting, the Multi-disciplinary Workshop adopted by consensus the text of a Draft Agreement on the Common Fisheries Policy.

CRFM Ministerial Council

Following the completion of the Workshop, the consultants produced a refined draft of the agreed text, suitable for presentation at the CRFM Forum (15 April 2011) and the CRFM Ministerial Council (Ministers responsible for fisheries) Special Meeting on 20 May 2011.



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In between the Workshop and the meeting of the Ministerial Council, the draft text was considered by the CRFM Forum (where it was approved) and at the meeting of CARICOM Foreign Ministers (COFCOR), where it was welcomed subject to a proposal that a requirement to report to COFCOR on implementation of the Agreement be included in the text. This was accepted by the Consultants as an appropriate amendment, and the draft presented to the CRFM Ministerial Council added a requirement to report to COFCOR and COTED.

The Fourth Special Meeting of the CRFM Ministerial Council took place at the Jolly Beach Hotel, St Mary's, Antigua on 20 May. Representatives of fourteen CARICOM Member States (sufficient for the meeting to be quorate) were in attendance, including Ministers, Permanent Secretaries and other high-level officials.

The draft text was presented by the Consultants and was adopted by the Ministerial Council, by consensus and without comment.

[5] Conclusions and recommendations

The project has successfully contributed to the achievement of the primary objective of the process: the adoption, by consensus, of the *Draft Agreement on Establishing the Caribbean Community Common Fisheries Policy* by the CRFM Ministerial Council.

The project should be considered as having been highly successful and as having made a genuine and significant contribution to the process of finalising an agreement that has been under discussion for almost ten years. On the other hand, it must also be recognised that the project contribution was just one of the elements – the facilitative role of CRFM (e.g. designing the methodology for the consultations and Workshop, which in the consultant's view was highly effective, and the identification of an effective Chair), the work of the ACP Fish II Caribbean office and – above all – the positive negotiations by the participating countries themselves.

The main contributions by the project could be considered to be:

- independent technical analysis of the draft text (free of “political baggage” and with wide understanding of international best practice)
- isolation of the key policy issues, to facilitate easier resolution of minor issues and technical/drafting issues – in particular, the consultants were able to identify a number of clarifications and purely drafting issues which removed a number of previously identified issues
- preparation of two different draft texts to facilitate discussion and agreement at both the consultation phase and at the Workshop phase
- drafting of amendments in-situ at the Workshop, which enable participants to be able to view instantly the implications of proposals and alternatives



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- provision of legal views at the Workshop on the interpretation of the text, which enabled understanding and facilitated agreement.

Next steps

Although the approval of the draft Agreement by the CRFM Ministerial Council is a major achievement, and a major step in the process, it is not the end of the process. In brief, the steps towards formal adoption, and potentially entry into force, of the Agreement will be as follows:

1. Submission of draft Agreement to Council for Trade and Economic Development (COTED) for consideration. (This is to introduce the document formally into the CARICOM decision-making process, and will comprise essentially the same ministers that met during the CRFM Ministerial Council).
2. The next substantive step is then consideration of the document by the Legal Affairs Committee (Attorneys-General of the CARICOM Members). The COTED must refer it to the Committee for legal scrutiny before it is submitted to the Heads of Government for signing.
3. Once the LAC reviews it they will refer it to the Community Council. They organize the Agenda of the Heads meetings and will decide when the CFP will be presented for signature.
4. Final step is consideration of the document by the Conference of Heads of Government

As required, the consultants will provide further support to these processes to the extent of explaining aspects of the draft which may be subject to queries and providing comments on the process which they undertook.



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Annexes

Annex 1

Terms of Reference



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1. BACKGROUND INFORMATION

1.1. Beneficiary country

The direct beneficiary countries for the implementation of this contract are the CARIFORUM countries, namely: Antigua and Barbuda, Barbados, The Bahamas, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

1.2. Contracting Authority

ACP FISH II Coordination Unit

36/21 Av. de Tervuren
5th Floor
Brussels 1040
Tel: +32 (0)2.7390060
Fax: +32(0)2.7390068

1.3. Relevant country background

The fisheries sector is important for the Caribbean Forum of ACP States (CARIFORUM) as it provides employments, enhances food security, and export earnings. It employs over 142,000 persons, directly and indirectly, mostly from rural villages which lack other income earning opportunities. The sector earns over USD 150 million per year from exports and saves the region three times in foreign exchange since the volume of production is four times the volume of export. It accounts for up to 8% of some members GDP. The fisheries sector is a major source of protein in rural communities which have a higher percentage of poverty than the national average. Fishing in the region complements tourism by providing alternative livelihood options such as tour guiding and fishing tournaments.

The ocean environment includes the Caribbean Sea (2.6 million km²) and the central Atlantic region off the coasts of Latin America, from Suriname to Trinidad and Tobago (310,000 km²). The living resources in the Caribbean Sea include queen conch, spiny lobster, crabs, mollusks, penaeid shrimps, turtles, marine mammals, and a variety of fish species such as reef fish, small and medium sized coastal pelagic species, large migratory pelagic species, and deep slope snapper and groupers. The nature of fisheries in this region, which stretches from Suriname to Belize and The Bahamas, is varied. It ranges from pelagic stocks off Trinidad and Tobago, shrimp and ground fish off Guyana and Suriname, reef species of the Eastern Caribbean, and conch and lobster stocks of Jamaica, The Bahamas, and Belize. Fish production in CARIFORUM countries in was approximately 170,000 MT (average 2001-2006) with an estimated value of over USD 450 million. The per capita consumption of fish in the Region is between 23-25 kg.

The structure of the sector is characterized by a large artisanal fishery where fishers operate on a small-scale basis utilizing small boats and limited gear technology (traps, cast nets, and hook and line). Countries like Barbados, Guyana, Suriname, and Trinidad and Tobago have an industrial fleet of large, modern, capital-intensive vessels which operate mainly in offshore areas and targets lobster, conch, tuna, and flying fish. Artisanal catches are sold mainly on the domestic market, while industrial catches are processed and exported. The recreational fishery includes domestic and international sport fishing.

CARIFORUM includes 14 CARICOM member states (Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago) and the Dominican Republic.

Sustainable use of fisheries resources in the region is supported by the Caribbean Regional Fisheries Mechanism (CRFM), established by the Caribbean Community (CARICOM) in March 2003.

1.4. Current state of affairs in the relevant sector

The Caribbean is experiencing enormous challenges in the management of its fisheries resources. Traditional commercially targeted species in the near-shore waters are either fully exploited or over-exploited. Researchers reported that offshore resources, such as conch, lobster, shrimp, large tuna and tuna-like species could offer some scope for development. Other major issues in the Caribbean, as it relates to the implementation of ACP Fish II are:

1. Member states typically lack the capacity to formulate and implement fisheries policies, development, and management strategies because critical inputs such as political commitment, institutional capacity, and effective stakeholder participation are generally lacking.
2. There is the need for an information system for management planning and decision-making. There is the problem of insufficient data, insufficient manpower for research, insufficient scientific and technical skills for sustainable resource management in Fisheries Department of the member countries, and weak resource management structure at the regional and national levels.
3. IUU fishing is one of the biggest threats to fisheries management for member states and the problem is compounded by large ocean space relative to land area, the migratory nature of some fisheries resources, and the lack of financial and technical resources for surveillance and enforcement. The extent of IUU fishing in this region is not quantified, nor is there the capacity to fully assess its extent throughout the region. However, the capacity to detect IUU fishing varies among countries.
4. MCS capabilities by member states is also limited as information on IUU vessels, catch rates, fishers, fishing effort and scientific information is not available. Likewise, legislation or regulations concerning fisheries management needs to be updated in accordance with international agreements and guidelines. And, in many instances the limits of the maritime zones, especially EEZ are yet to be determined which has implications for enforcement of jurisdictions.

The need to promote co-management with fishermen organization for effective fisheries management to increased stewardship and authority among fishermen, the largest marine resource users.

1.5. Related programmes and other donor activities:

The CRFM was established in 2003 to develop the region's institutional capacity in the fisheries sector. This RFB, an inter-governmental organization, promotes and facilitate the responsible utilization of the region's fisheries and aquaculture resources for the economic and social benefits of the current and future population of the region in collaboration with stakeholders. CRFM will continue to enhance policy formulation, resource management and assessment, and harvesting and post harvesting technologies of Member States. In terms of policy formulation, Member States agreed on the development of a Common Fisheries Policy (CFP) as a priority policy objective in the fisheries sector. Since the establishment of the CRFM, the Heads of Government of the Caribbean Community issued a mandate for the preparation of a Common Policy for the exploitation and conservation of fisheries resources. This activity has been largely funded by CARICOM, CRFM Secretariat, and Member States.

Other fisheries-related regional and international agencies operating in the Caribbean region include:

- The Organization of Eastern Caribbean States/Environment and Sustainable Development Unit (OECS-ESDU) – assist member states in the sustainable use of natural resources to ensure the sustainability of livelihoods of the people of the OECS including biodiversity management, protected areas, and environmental management and planning
- Western Central Atlantic Fishery Commission (WECAFC) of the Food and Agriculture Organization (FAO) – contribute to improved governance through institutional arrangements, and collect, exchange, and disseminate statistical, biological, environmental, and socio-economic data
- Association of Caribbean States (ACS) –pursued the Caribbean Sea Initiative through the promotion of the UN Resolution ‘Towards the sustainable development of the Caribbean Sea for present and future generation’ at the UN General Assembly. The main outcome is the establishment of the Caribbean Sea Commission to promote and oversee the sustainable use of the Caribbean Sea.
- United Nations Educational, Scientific and Cultural Organization (UNESCO) and United Nations Environment Programme (UNEP) – currently implementing the project “Strengthening Management of the Shared Living Marine Resources of the Caribbean Large Marine Ecosystem (CLME) and Adjacent Regions. The project aims to assist Caribbean countries improve management of shared living marine resources through an ecosystem level approach
- The International Commission on Conservation of Atlantic Tuna (ICCAT) - plays an important role in managing tuna and tuna-like species in the region.

In the conduct of this assignment, consultants are expected to work closely with the CRFM and Member States to gather relevant information and ensure coordination.

2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1. Overall objective

The overall objective of the project of which this contract will be a part is as follows:

To contribute to the sustainable and equitable management of fisheries in ACP regions, thus leading to poverty alleviation and improving food security. The specific Objective of the Programme is to strengthen fisheries sectoral policy development and implementation in ACP countries.

2.2. Purpose

The purpose of this contract is to complete a draft Common Fisheries Policy (CFP) for the Caribbean Community and its submission to the CARICOM Heads of Government for consideration.

2.3. Results to be achieved by the Consultant

- Recommendation prepared for refinement of draft CFP
- Regional multi-disciplinary Workshop held and recommendations available to facilitate refinement of Agreement on the CFP
- Revised Draft Agreement establishing the Common Fisheries Policy considered for acceptance by the Ministerial Council and

- Revised Agreement on the CFP submitted to for acceptance by the CARICOM Heads of Government

3. ASSUMPTIONS & RISKS

3.1. Assumptions underlying the project intervention

The need for this intervention was clearly identified in the Regional Needs Assessment workshop with fisheries administrations and representatives of Regional Fisheries Bodies carried out in Belize City, November 2009. The need for this activity was further confirmed by consultation with the CRFM, the CRFM Fisheries Forum (comprising Chief Fisheries Officers/Director of Fisheries) and the CRFM Ministerial Council (comprising Ministers responsible for Fisheries).

Since ACP FISH II is a demand-driven Programme, it is assumed that counterpart institutions (the CRFM and Participating States) take all the necessary measures to ensure their fulfilment of obligations and responsibilities as set forth under this project. Failure to meet that requirement is likely to result in the project not achieving the necessary results

3.2. Risks

Risks for the implementation of this contract are minimised, since the intervention was identified and endorsed in cooperation with the CRFM and Member States. The assumption is that the CRFM, Member States and stakeholders are well aware of the intervention and prepared to allocate official hours to its implementation. The participatory planning approach adopted in the development of this intervention will continue through implementation to ensure that risks of overlap and lack of co-ordination with other initiatives of governments and RFBs will be minimised. Likewise, the chosen methodology is consistent with CRFM ongoing approach.

4. SCOPE OF THE WORK

4.1. General

4.1.1. Project description

The Initiative to prepare a Common Fisheries Policy began at the Fourteenth Inter-Sessional Meeting of Conference of Heads of Government of the Caribbean Community, held in Trinidad and Tobago 14-15 February 2003, when the Conference noted and endorsed a proposals submitted by the Government of Barbados on the imperative of elaborating a Common Fisheries Regime. The Conference went on to issue a mandate for the preparation of a Common Policy for the exploitation and conservation of regional fisheries resources.

Member States, at the technical level, represented by the Caribbean Regional Fisheries Mechanism (CRFM) Forum, have prepared a number of technical study reports, held consultations, participated in regional working groups, and held formal meetings of the Forum, with a view to developing the proposals regarding the scope and content of the Common Fisheries Policy and Regime (CFP&R), which have been incorporated into a draft Agreement. The technical work has been guided by regional policy makers, represented primarily by the CARICOM Council for Trade and Economic Development (COTED) and, since January 2009, the CRFM Ministerial Council (comprising Ministers Responsible for Fisheries).

In January 2009 the CRFM Ministerial Council decided to separate the development of the Common Fisheries Policy and the Implementing Regime and to prepare them sequentially, focusing first on elaboration of the Policy and once that is agreed, attention would be given to elaborating the Regime. The reason for this sequential approach to addressing the mandate of the Heads of Government was to overcome disagreements and delays among the countries arising from certain sensitive issues regarding the regime including a proposed common fishing zone, access rules and conservation and management arrangements connected thereto.

The Policy and Regime were separated through a series of meetings in 2009. The Draft Agreement Establishing the Common Fisheries Policy lays down the objectives to be achieved, the basic principles and rules regarding sustainable use, conservation, management and development of the aquatic resources under the sovereignty or jurisdiction of Member States of the Community, in accordance with the mandate of the Conference, relevant principles from the Revised Treaty of Chaguaramas, and the United Nations Convention on the Law of the Sea and associated instruments, such as the FAO Code of Conduct for Responsible Fisheries.

The negotiation of the Agreement establishing the CFP is at an advanced stage of completion. However, further negotiation is needed among the participating states to settle a number of substantive and drafting concerns that have arisen within the past few months.

This project will provide technical assistance to the Member States to review and refine the Draft Policy. The main activity will be a regional multi-disciplinary workshop involving key stakeholders including government officials, regional experts and representatives of fisherfolk to review and provide comments to assist legal drafters in finalizing the Agreement for submission to the Ministerial Council for endorsement. Thereafter technical assistance will be needed to support the submission and further refinement of the Agreement as it makes its way through the formal process of submission to the Conference of Heads of Government.

4.1.2. Geographical area to be covered

Without prejudice to the delimitation of maritime boundaries, a common zone is established which consists of the waters of the Participating States beyond the limits of the Territorial Sea. Participating states include Antigua and Barbuda, Barbados, The Bahamas, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

4.1.3. Target groups

The target group for this activity are Chief Fisheries Officers/Director of Fisheries, the CRFM Ministerial Council (Ministers responsible for Fisheries), Foreign Affairs and legal expertise from Participating States supported by experts from regional and international organizations connected with the fisheries sector and private sector representatives (fisher folk organizations and other NGOs).

4.2. Specific activities

This contract will be completed in two phases:

The consultant will complete the following tasks in Phase 1:

1. Briefing by the ACP Fish II Programme and the CRFM

2. Review and prepare recommendations for refinement of draft Agreement establishing the Common Fisheries Policy based on comments received from the countries and other stakeholders
3. Facilitate a three days regional multi-disciplinary Workshop involving fisheries, foreign affairs and legal expertise from the participating states supported by experts from Regional and International organizations connected with the fisheries sector, and private sector representatives (fisher folk organizations and other NGO)
4. Visit at least 5 participating states (based on discussions with CRFM) to discuss and settle substantive and drafting concerns.
5. Preparation of an Interim Technical Report which includes the outcome of the workshop and visits to Participating States.

The consultant will complete the following tasks in Phase 2:

6. Prepare and circulate draft text of legal agreement (including updates and resolved issues) to Participating States and CRFM for comments.
7. Finalize draft text of legal agreement and make presentation at the CRFM Ministerial Council (Ministers responsible for Fisheries).
8. Incorporate comments of the Ministerial Council in the final version of the CFP.
9. Preparation of a Final Technical Report.
10. As part of the visibility and public awareness programme on the benefits of the CFP to be developed, experts will be asked to interpret and explain legal concepts and clarify aspects of the policy

In addition to the reporting requirements mentioned in Section 7.1 of these Terms of Reference, the Consultant is required to prepare the following reports in English:

- i. An Interim Technical Report (ITR), no longer than 12 pages, will present the review and finding on the draft CFP, along with the outcome of the workshop and country visits;
- ii. The Final Technical Report (FTR), taking into account changes and comments from the RFU, CU and the CRFM will be submitted within one month of the consultant leaving the country. A draft FTR will be submitted before the Consultant leaves the country on conclusion of the mission. Comments on the draft CFP may be made by the RFU, CU and the CRFM within 14 days. If required, a second draft CFP will be submitted.

4.3. Project management

4.3.1. Responsible body

The Coordination Unit of the ACP Fish II Programme, on behalf of the ACP Secretariat is responsible for managing the implementation of this contract.

4.3.2. Management structure

The ACP Fish II Programme is implemented through the Co-ordination Unit (CU) in Brussels and six Regional Facilitation Units (RFUs) across the ACP States. The RFU in Belize, covering ACP Member states in the Caribbean, will closely support implementation of this intervention and will monitor the execution of the contract pursuant to these Terms of Reference. All contractual communications should be addressed in original to the CU and copied to the RFU. Day-to-day

supervision will be carried out by the RFU. For the purposes of this contract, the ACP Fish II Programme Coordinator will act as the Project Manager.

4.3.3. Facilities to be provided by the Contracting Authority and/or other parties

Not applicable.

5. LOGISTICS AND TIMING

5.1. Location

The principal working location for the consultant will be the CRFM Secretariat in Belize with the regional workshop to take place at an agreed country and venue. Visit to specific countries and regional workshop will be carried out according to the approved work plan presented by the Consultant.

5.2. Commencement date & Period of implementation

The intended commencement date is 30 September 2010 and the period of implementation of the contract will be five months from this date. Please refer to Articles 4 and 5 of the Special Conditions for the actual commencement date and period of implementation.

6. REQUIREMENTS

6.1. Personnel

6.1.1. Key experts

All experts who have a crucial role in implementing the contract are referred to as key experts. The profiles of the key experts for this contract are as follows:

Key expert 1: Team Leader (Senior Legal Expert)

Qualifications and skills

- A master degree in a relevant subject area (Fisheries Management, Policy, Law) or equivalent and relevant professional qualification
- The expert should have a high level of proficiency in spoken and written English

General professional experience

- Minimum 10 years of relevant international experience in fisheries policy
- Excellent communication, report-writing and project/task management skills

Specific professional experience

- Experience in Caribbean fisheries
- Experience in carrying out assignments for the EU or other equivalent international development partners
- Familiar with the development of the EU Common Fisheries Policy

The maximum number of working days for this expert is **35**.
The maximum number of missions for this expert is **6**.

Key expert 2: Legal expert

Qualifications and skills

- A degree in any relevant area and professional qualifications (Fisheries Management, Law)
- The expert should have a high level of proficiency in spoken and written English

General professional experience

- Minimum 5 years of regional experience in fisheries policy
- Project management and facilitation skills required

Specific professional experience

- Understanding of fisheries policy issues and realities in the Caribbean and experience of regional policy would be an advantage
- Previous experience working in the Caribbean

The maximum number of working days for this expert is **25**.
The maximum number of missions for this expert is **4**.

Indicative number of working days by expert and task:

Indicative task	Key Expert 1 (days)	Key Expert 2 (days)
Briefing and debriefing with CRFM and RFU	1	0
Review and recommendations on refining the draft CFP	3	3
Multi-disciplinary workshop (organization, presentation, workshop)	10	10
Visit specific Member States to discuss concerns	13	9
Finalize agreement for submission to Ministers	4	2
Reports (interim and final technical report)	4	1
Total	35	25

6.1.2. Other experts

No other experts will be recruited under this contract.

6.1.3. Support staff & backstopping

Backstopping and support staff costs must be included in the fee rates of the experts.

6.2. Office accommodation

Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by the CRFM and RFU when required.

6.3. Facilities to be provided by the Consultant

The Consultant shall ensure that experts are adequately supported and equipped. In particular it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support its activities under the contract and to ensure that its employees are paid regularly and in a timely fashion.

If the Consultant is a consortium, the arrangements should allow for the maximum flexibility in project implementation. Arrangements offering each consortium member a fixed percentage of the work to be undertaken under the contract should be avoided.

6.4. Equipment

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure.

6.5. Incidental expenditure

The Provision for incidental expenditure covers the ancillary and exceptional eligible expenditure incurred under this contract. It cannot be used for costs which should be covered by the Consultant as part of its fee rates, as defined above. Its use is governed by the provisions in the General Conditions and the notes in Annex V of the contract. It covers:

- Travel costs and subsistence allowances for missions, outside the normal place of posting, to be undertaken as part of this contract. If applicable, indicate if the provision includes costs for environmental measures, for example CO2 offsetting.
- The cost of regional workshop organisation including travel, accommodation, daily allowance, workshop venue cost.

The Provision for incidental expenditure for this contract is EUR 89,020. This amount must be included without modification in the Budget breakdown.

Any subsistence allowances to be paid for missions undertaken as part of this contract must not exceed the per diem rates published on the Web site:

http://ec.europa.eu/europeaid/work/procedures/index_en.htm at the start of each such mission.

6.6. Expenditure verification

The Provision for expenditure verification relates to the fees of the auditor who has been charged with the expenditure verification of this contract in order to proceed with the payment of further pre-financing instalments if any and/or interim payments if any.

The Provision for expenditure verification for this contract is EUR 3,000. This amount must be included without modification in the Budget breakdown.

7. REPORTS

7.1. Reporting requirements

Please refer to Article 26 of the General Conditions. There must be a final report, a final invoice and the financial report accompanied by an expenditure verification report at the end of the period of implementation of the tasks. The draft final report must be submitted at least one month before the end of the period of implementation of the tasks. Note that these interim and final reports are additional to any required in Section 4.2 of these Terms of Reference.

Each report shall consist of a narrative section and a financial section. The financial section must contain details of the time inputs of the experts, of the incidental expenditure and of the provision for expenditure verification.

7.2. Submission & approval of progress reports

Three copies of the progress reports referred to above must be submitted to the Project Manager identified in the contract. The progress reports must be written in English. The Project Manager is responsible for approving the progress reports.

8. MONITORING AND EVALUATION

8.1. Definition of indicators

The results to be achieved by the consultant are included in section 2.3. Progress to achieving these results will be measured through the following indicators:

1. Quality of consultants fielded and speed of mobilisation to the relevant country will indicate a positive start to the assignment;
2. Level of attendance, participation, and issues or problems identified at the multi-disciplinary workshop;
3. Nature of evaluation reports from participants;
4. Number resolutions by Participating States;
5. Reported involvement of Participating States and other key stakeholders in the final review of the CFP;
6. Number and nature of comments received on the Draft Final Technical Report and CFP.

The Consultant may suggest additional monitoring tools for the contract duration.

8.2. Special requirements

Not Applicable

* * *

Annex 2 – Itinerary, institutions and individuals consulted

First Mission: Inception Meetings (Belize)

Person met	Position	Organisation	Country
Dr Sandra Grant	Regional Manager	Caribbean RFU	Belize
Mr Hugh Saul	Executive Director	CRFM	Belize
Mr Milton Houghton	Deputy Executive Director	CRFM	Belize
Mr Delmar Lanza	Manager, Finance and Administration	CRFM	Belize
Mr. Gabino Canto	Chief Executive Officer	Ministry of Agriculture	Belize
Ms. Beverly Wade	Fisheries Administrator	Ministry of Agriculture	Belize
Mr. George Myvett	Senior Fisheries Officer	Ministry of Agriculture	Belize

Second Mission: Country Consultations (Barbados, Guyana, Saint Lucia, Suriname, Trinidad and Tobago)

Person met	Position	Organisation	Country
Mr. Michael King	Permanent Secretary	Ministry of Agriculture, Food, Fisheries, Industry and Small Business Development	Barbados
Mr. Stephen Willoughby	Chief Fisheries Officer	Fisheries Division, Ministry of Agriculture, etc.	Barbados
Ms. Joy-Ann Skinner	Senior Foreign Service Officer	Ministry Of Foreign Affairs	Barbados
Ms Donna Brathwaite	Senior Counsel	Office of the Attorney General	Barbados
Mr. George Jervis	Permanent Secretary (ag.)	Ministry of Agriculture	Guyana
Mr. Denzil Roberts	Chief Fisheries Officer (ag.)	Department of Fisheries, Ministry of Agriculture	Guyana

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Mr. Cecil Seepersaud	Head, Project Management Unit	Ministry of Agriculture	Guyana
Hon. Ezechiel Joseph	Minister of Agriculture, Forestry and Fisheries	Ministry of Agriculture, Forestry and Fisheries	Saint Lucia
Mr. Hubert Emmanuel	Permanent Secretary	Ministry of Agriculture, Forestry and Fisheries	Saint Lucia
Mrs. Sarah George	Chief Fisheries Officer	Department of Fisheries, Ministry of Agriculture, Forestry and Fisheries	Saint Lucia
Hon. Hendrik S. Setrowidjojo	Minister of Agriculture, Animal Husbandry and Fisheries	Ministry of Agriculture, Animal Husbandry and Fisheries	Suriname
Mr. G.A. Breinburg	Permanent Secretary (ag.)	Ministry of Agriculture, Animal Husbandry and Fisheries	Suriname
Mr. R.B.L. Lieveld	Deputy Director of Fisheries	Fisheries Department, Ministry of Agriculture, Animal Husbandry and Fisheries	Suriname
Ms. Margaret Parillon	Permanent Secretary	Ministry of Food, Production, Land and Marine Affairs	Trinidad and Tobago
Amb. Gerald Thompson	Director, Treaties, International Agreements and Legal Division	Ministry of Foreign Affairs	Trinidad and Tobago
Ms. Christine Chan-A-Shing	Director of Fisheries, Fisheries Division	Ministry of Food, Production, Land and Marine Affairs	Trinidad and Tobago
Ms. Kimoy Thomas	Legal Officer	Ministry of the Attorney-General	Trinidad and Tobago
Amb. Irwin LaRocque	Assistant Secretary-General	CARICOM Secretariat	Guyana
Ms. Safiya Ali	General Counsel (ag)	CARICOM Secretariat	Guyana
Dr. Len Ishmael	Director General	OECS Secretariat	Saint Lucia
Mr. Keith Nichols	Director, Environment and Sustainable Development Unit	OECS Secretariat	Saint Lucia
Mr. Peter A. Murray	Programme Officer, Environment and Sustainable Development Unit	OECS Secretariat	Saint Lucia
Amb. Geert Heikens	Head of Delegation	Delegation of the European Union to	Guyana

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		Guyana, Suriname, Trinidad & Tobago, Aruba and Netherlands Antilles	
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Third Mission: Multi-Disciplinary Workshop (Guyana)

Delegate	Position	Organisation	Country
Sen. Hon. Joanne Massiah	Minister of State	Ministry of Legal Affairs	Antigua and Barbuda
Mr. Philmore James	Deputy Chief Fisheries Officer	Fisheries Division	Antigua and Barbuda
Ms. Sandra Joseph	Senior Foreign Service Officer	Ministry of Foreign Affairs	Antigua and Barbuda
Mr. Stephen Willoughby	Chief Fisheries Officer	Fisheries Division, Ministry of Agriculture, etc.	Barbados
Ms. Joy-Ann Skinner	Senior Foreign Service Officer	Ministry Of Foreign Affairs	Barbados
Ms Donna Brathwaite	Deputy Solicitor General (ag.)	Office of the Attorney General	Barbados
Mr. Mauro Gongora	Fisheries Officer	Fisheries Department	Belize
Mr. Oscar Ramjeet	Solicitor General	Attorney-General's Ministry	Belize
Ms. Tasha Young	Foreign Service Officer	Ministry of Foreign Affairs and Foreign Trade	Belize
Mr. Andrew Magloire	Chief Fisheries Officer	Fisheries Division	Dominica
Mrs. Wynante Adrien-Roberts	Solicitor General	Ministry of Legal Affairs	Dominica
Ms. Kisha Lewis	Foreign Service Officer	Ministry of Foreign Affairs	Dominica
Mr. Justin Rennie	Chief Fisheries Officer	Fisheries Division	Grenada
Mr. Marlon Glean	Legal Officer	Ministry of Foreign Affairs	Grenada
Ms. Ayesha Baisden	Legal Drafter	Ministry of Legal Affairs	Grenada
Mrs. Candida Daniels	Director	Ministry of Foreign Affairs	Guyana

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Mr. Denzil Roberts	Chief Fisheries Officer (ag.)	Department of Fisheries, Ministry of Agriculture	Guyana
Mr. Gary Baird		Ministry of Agriculture	Guyana
Mr. Kurth Rodrigues		Ministry of Foreign Affairs	Guyana
Ms. Alison Stone-Roofe	Director	Ministry of Foreign Affairs and Foreign Trade	Jamaica
Ms. Yvonne Crawford	Senior Legal Officer	Ministry of Agriculture	Jamaica
Mr. O'Neil Francis	Crown Counsel	Attorney General's Chambers	Jamaica
Mr. Alwyn Ponteen	Fisheries Officer	Fisheries Division	Montserrat
Mr. Colin Fergus	Assistant Secretary	Office of the Chief Minister	Montserrat
Ms. Alison Skerritt	Crown Counsel (Civil and Commercial)	Attorney-General's Chambers	Montserrat
Mr. Marc Williams	Senior Fisheries Officer	Department of Marine Resources	Saint Kitts and Nevis
Mrs. Sarah George	Chief Fisheries Officer	Department of Fisheries, Ministry of Agriculture, Forestry and Fisheries	Saint Lucia
Ms. Karen Bernard	Crown Counsel	Attorney-General's Chambers	Saint Lucia
Ms. Kimberly Louis	Foreign Service Officer	Ministry of External Affairs, International Trade and Investment	Saint Lucia
Mr. Raymond Ryan	Chief Fisheries Officer	Fisheries Division	Saint Vincent and the Grenadines
Mrs. Sandy Phillips	Deputy Director of Foreign Policy	Ministry of Foreign Affairs, Foreign Trade and Consumer Affairs	Saint Vincent and the Grenadines
Mr. R.B.L. Lieveid	Director of Fisheries	Fisheries Department, Ministry of Agriculture, Animal Husbandry and Fisheries	Suriname
Mrs. Eurdice Hofwijks-Koendjibharie	First Secretary	Embassy of the Republic of Suriname	Suriname
Amb. Gerald Thompson	Director, Treaties, International	Ministry of Foreign Affairs	Trinidad and Tobago

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	Agreements and Legal Division		
Ms. Christine Chan-A-Shing	Director of Fisheries, Fisheries Division	Ministry of Food, Production, Land and Marine Affairs	Trinidad and Tobago
Ms. Kimoy Thomas	Legal Officer	Ministry of the Attorney-General	Trinidad and Tobago
Mr. James C. Gumbs	Director	Department of Fisheries and Marine Resources	Anguilla
Dr. Sandra Grant	Regional Manager	Caribbean RFU, ACP Fish II	Belize
Mr. Galston White	Coordinating Unit	Caribbean Network of Fisheries Organisations	Antigua and Barbuda
Amb. Lolita Applewhaite	Secretary-General (ag.)	CARICOM Secretariat	Guyana
Amb. Irwin LaRocque	Assistant Secretary-General	CARICOM Secretariat	Guyana
Ms. Safiya Ali	General Counsel (ag)	CARICOM Secretariat	Guyana
Ms. Margaret Kalloo	Deputy Programme Manager, Agricultural Development Unit	CARICOM Secretariat	Guyana
Mr. Nigel Durrant	Head, Agricultural Unit, Office of Trade Negotiations	CARICOM Secretariat	Guyana
Mr. Hugh Saul	Executive Director	CRFM Secretariat	Belize
Mr. Milton Haughton	Deputy Executive Director	CRFM Secretariat	Belize
Mr. Delmar Angel Lanza	Manager, Finance and Administration	CRFM Secretariat	Belize
Mr. Terrence Phillips	Programme Manager, Fisheries Management and Development	CRFM Secretariat	Belize
Dr. Susan Singh-Renton	Programme Manager, Research and Resource Assessment	CRFM Secretariat	Belize
Mr. Peter A. Murray	Programme Officer, Environment and Sustainable Development Unit	OECS Secretariat	Saint Lucia
Dr. Patrick McConney	Senior Lecturer, CERMES	University of the West Indies	Barbados

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Annex 3

Inception Report



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INTERIM REPORT

Finalising the Caribbean Community Common Fisheries Policy

Report submitted to the ACP Fish II Coordinating Unit, Caribbean

16 MAY 2011

AUTHORS

Chris Hedley, Winston Mcalla

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1: INTRODUCTION

This Interim Report provides an overview of activities, progress and achievements under the project "Finalising the Caribbean Common Fisheries Policy", funded under the EU ACP Fish II Programme. The project commenced in February 2011 and will be completed in May 2011. This reporting phase covers the preparatory work and the first missions to the Caribbean region.

The activities described in this report were carried out by a team from IBF Consulting, Belgium, comprising two key experts – Chris Hedley (Director, Globe Law Group), Team Leader and Key Expert 1 and Winston McCalla (independent consultant), Key Expert 2 – with administrative support from Patrick Messina, of IBF.

The consultant team wish to acknowledge, with gratitude, the support and assistance provided by the Caribbean Regional Fisheries Mechanism and the ACP Fish II Regional Coordinating Unit in contributing to the successful completion of the tasks within this project.

2: PROGRESS REVIEW

The main tasks carried out during this reporting phase were focussed on preparing a revised text of the Draft Agreement establishing the Caribbean Common Fisheries Policy for presentation at the Multi-Disciplinary Workshop on Finalising the Caribbean Common Fisheries Policy, which was organised by CRFM, ACP Fish II and the Consultant from 12-14 April 2011, at the Pegasus Hotel, Georgetown, Guyana. Briefly, the main tasks were as follows:

- Preparatory work, including technical review of the existing draft
- Inception meeting in Belize with Caribbean Regional Fisheries Mechanism and the ACP Fish II Regional Coordinating Unit for the Caribbean
- Preparation of a working draft for the pre-Workshop consultation exercise
- Round of country visits to five countries (Barbados, Guyana, St Lucia, Suriname, Trinidad and Tobago), as an initial consultation exercise
- Adaptation of the working draft for the Workshop, and preparation of a working paper for the Workshop
- Attendance at the Multi-Disciplinary Workshop, in Guyana.
- Finalising of the draft text for submission to the CRFM Forum, the Ministerial Council and other forums.

Inception meeting

The two Key Experts met with staff from the Caribbean Regional Fisheries Mechanism Secretariat (Hugh Saul, Executive Director; Milton Haughton, Deputy Executive Director; and Delmar Angel Lanza, Manager Finance and Administration) and with Dr Sandra Grant, ACP Fish II Regional Manager for the Caribbean in Belize City, Belize from 21 to 24 February.

The Key Experts were given an extensive briefing by the Deputy Executive Director on the background to the Caribbean CFP process, and discussed with him the future direction of the project. The key messages for the Key Experts were: (1) there was a certain degree of agreement around the text as presented to the Second Special Meeting of the CRFM Ministerial Council in St Lucia, July 2010; (2) the task was to try to accommodate some outstanding comments, in particular expressed by three countries (Barbados, Suriname, Trinidad and Tobago); and (3) on this basis, it was agreed to prepare a revised draft Agreement text in advance of the round of country consultations which did not depart too extensively from the July 2010 draft.

In order to facilitate their preparation, the Key Experts were provided with a full set of documents by the CRFM Secretariat providing a comprehensive background to the CFP process.

Additionally, during this mission visits were arranged by CRFM to meet Belize's Permanent Secretary for Agriculture and Fisheries, and senior officials from the Belize Department of Fisheries.

Pre-Workshop Consultations

The Key Experts, assisted by Mr Milton Haughton of CRFM, undertook a series of visits to 5 countries in order to consult with relevant officials prior to the Multi-Disciplinary Workshop. The following visits were made:

- Barbados (11 March)
- Guyana (14-15 March)
- St Lucia (17-19 March)
- Suriname (19-22 March)
- Trinidad and Tobago (24-25 March)

In each case, the meetings were both highly constructive and highly instructive. Open discussions were held with senior officials from the countries visited, which greatly informed the Key Experts analysis and approach.

A brief review of each mission follows.

Barbados

In Barbados a joint meeting was held with the Chief Fisheries Officer and representatives of the Attorney General's Department and the Ministry of Foreign Affairs. The consultants also had a country meeting with the Permanent Secretary for the Ministry of Agriculture, as well as the senior officials of the Ministry.

Guyana (including CARICOM Secretariat and EU Delegation)

Meetings were held with the Permanent Secretary, Ministry of Agriculture, the Chief Fisheries Officer, a legal adviser from the Ministry of Agriculture and also a representative from the private sector.

During this mission, the consultants also visited the headquarters of CARICOM and met with Ambassador LaRocque, Assistant Secretary General, and Ms Ali, General Counsel, in order to update them on the process and the next steps.

Finally, the consultants also met with the Head of the Delegation of the European Union to Guyana, Suriname, Trinidad & Tobago, Aruba and Netherlands Antilles, Ambassador Geert Heikens, and members of his staff in order to inform the Delegation of the process.

Suriname

The consultants had detailed meetings with the Director of Fisheries, Ministry of Agriculture and all senior members of his staff, and had detailed discussions on all aspects of the draft Agreement. The consultants also met with the Permanent Secretary, Ministry of Agriculture and senior staff.

St. Lucia (including OECS)

Meetings took place with officials of the St. Lucia Government, as well as OECS officials. For St. Lucia the Minister of Agriculture (Ag), the Permanent Secretary the Chief Fisheries

Officer and the Deputy Chief Fisheries Officer were present. The OECS Secretariat had two representatives.

Trinidad and Tobago

Consultants had a three day meeting with the representative of the Government of Trinidad and Tobago. These representatives included Director of Fisheries and senior staff, head Legal Section Ministry of Foreign Affairs and staff as well as a representative of the Attorney General's Department.

Workshop Preparation

The discussions that took place during the consultation exercise were varied. Whilst on many areas, most countries shared a similar position a number of key issues emerged on which there were substantial differences of view between some countries, including the legal form of the agreement, the role of the CRFM, the scope of membership/participation (including whether the agreement should be a "Caribbean" or a "CARICOM" agreement) and on the provisions on access to fisheries resources.

The consultants recognized that some of the issues raised in the consultations could be *resolved* by new drafting suggestions, future discussions on some issues could be *facilitated* by new drafting suggestions or alternatives while other issues required consideration at the policy level and could *not be resolved* by legal drafting. Nevertheless, even in the latter case the consultants recognized they had a role to play in providing legal advice and by assisting in the drafting of preferred solutions.

In order to prepare for the Multi-Disciplinary Workshop, the consultants produced a new draft of the proposed Agreement text and included this in a working paper which set out the background to the process and their approach, and compared the proposed updated version with the July 2010 version. The updated draft was developed significantly from the July 2010 version, whilst trying as far as possible to remain faithful to that earlier version. The draft text was prepared as a "stepping stone" intended to enable participants at the Multi-Disciplinary Workshop to further discuss the text and get from where they were in the July 2010 version to where they needed to be to reach agreement. The Workshop Paper is reproduced in Appendix 3

Multi-disciplinary Workshop

The Multi-Disciplinary Workshop on Finalising the Caribbean Common Fisheries Policy, which was organised by the Consultant, with the help of CRFM and ACP Fish II at the Pegasus Hotel, Georgetown, Guyana. More than 60 delegates, invited guests and experts participated, including senior officers from Ministries responsible for Foreign Affairs, Fisheries Departments and Legal Departments of the CARICOM Member States, the CARICOM Secretariat, CRFM Secretariat, OECS Secretariat, University of the West Indies and the Regional Network of Fisher Folk Organizations (the List of Participants is reproduced in Appendix 2). The objectives of the Multi-disciplinary workshop were to review and finalize a Draft Common Fisheries Policy for the Caribbean Community for consideration by the CRFM Ministerial Council (Ministers responsible for fisheries) at a Special Meeting in May 2011.

The meeting provided an opportunity for the members of the group to:

1. Discuss and clarify concerns
2. Negotiate and arrive at agreement on the content of the draft agreement
3. Propose wording for the provisions of the draft agreement
4. Complete the Draft Agreement for submission to the Ministers for consideration

The workshop undertook its work through plenary discussions, moving through the revised draft agreement, article by article taking into consideration the revisions that had been made over the May 2010 version by the Key Experts based on their technical review and earlier consultation with and input from some member States. Additionally, in an attempt to reach consensus on some of the issues where participant views appeared to remain quite divergent, two working groups were established. The second of these comprised Antigua and Barbuda, Barbados, Belize, Trinidad and Tobago, the CRFM Secretariat and the Key Experts, and dealt with Articles 9 to 17.

At the conclusion of the meeting, the Multi-disciplinary Workshop produced a negotiated Draft Agreement on the Common Fisheries Policy.

3: CONTRIBUTION, OUTCOMES AND NEXT STEPS

Up to the conclusion of the Multi-Disciplinary Workshop, and the unanimous adoption of a draft Agreement at that Workshop, the project “Finalising the Caribbean Common Fisheries Policy” should be considered as having been highly successful and as having made a genuine and significant contribution to the process of finalising an agreement that has been under discussion for almost ten years. On the other hand, it must also be recognised that the project contribution was just one of the elements – the facilitative role of CRFM (e.g. designing the methodology for the consultations and Workshop, which in the consultant’s view was highly effective, and the identification of an effective Chair), the work of the ACP Fish II Caribbean office and – above all – the positive negotiations by the participating countries themselves.

The main contributions by the project could be considered to be:

- independent technical analysis of the draft text (free of “political baggage” and with wide understanding of international best practice)
- isolation of the key policy issues, to facilitate easier resolution of minor issues and technical/drafting issues – in particular, the consultants were able to identify a number of clarifications and purely drafting issues which removed a number of previously identified issues
- preparation of two different draft texts to facilitate discussion and agreement at both the consultation phase and at the Workshop phase
- drafting of amendments in-situ at the Workshop, which enable participants to be able to view instantly the implications of proposals and alternatives
- provision of legal views at the Workshop on the interpretation of the text, which enabled understanding and facilitated agreement.

Following the completion of the Workshop, the consultants produced a refined draft of the agreed text, suitable for presentation at the CRFM Forum (15 April 2011) and the CRFM Ministerial Council (Ministers responsible for fisheries) Special Meeting on 20 May 2011.

The consultants will be in attendance at the CRFM Ministerial Council Special Meeting to present the draft text to the Ministers (outline key provisions, explain process and how issues were resolved and discuss implications of the draft Agreement's provisions).

APPENDIX 1 – LIST OF PERSONS CONSULTED (COUNTRY VISITS)

BARBADOS

Mr. Michael King

Permanent Secretary

Ministry of Agriculture, Food, Fisheries, Industry and Small Business Development

Mr. Stephen Willoughby

Chief Fisheries Officer

Fisheries Division, Ministry of Agriculture, Food, Fisheries, Industry and Small Business Development

Ms. Joy-Ann Skinner

Senior Foreign Service Officer

Ministry Of Foreign Affairs

Ms Donna Brathwaite

Senior Counsel

Office of the Attorney General

GUYANA

Mr. George Jervis

Permanent Secretary (ag.)

Ministry of Agriculture

Mr. Denzil Roberts

Chief Fisheries Officer (ag.)

Department of Fisheries, Ministry of Agriculture

Mr. Cecil Seepersaud

Head, Project Management Unit

Ministry of Agriculture

ST LUCIA

Hon. Ezechiel Joseph

Minister of Agriculture, Forestry and Fisheries

Ministry of Agriculture, Forestry and Fisheries

Mr. Hubert Emmanuel

Permanent Secretary

Ministry of Agriculture, Forestry and Fisheries

Mrs. Sarah George

Chief Fisheries Officer

Department of Fisheries, Ministry of Agriculture, Forestry and Fisheries

SURINAME

Hon. Hendrik S. Setrowidjojo
Minister of Agriculture, Animal Husbandry and Fisheries
Ministry of Agriculture, Animal Husbandry and Fisheries

Mr. G.A. Breinburg
Permanent Secretary (ag.)
Ministry of Agriculture, Animal Husbandry and Fisheries

Mr. R.B.L. Lieveld
Deputy Director of Fisheries
Fisheries Department, Ministry of Agriculture, Animal Husbandry and Fisheries

TRINIDAD AND TOBAGO

Ambassador Gerald Thompson
Director, Treaties, International Agreements and Legal Division
Ministry of Foreign Affairs

Ms. Christine Chan-A-Shing
Director of Fisheries, Fisheries Division
Ministry of Food, Production, Land and Marine Affairs

Ms. Kimoy Thomas
Legal Officer
Ministry of the Attorney-General

CARICOM SECRETARIAT, GUYANA

Ambassador Irwin LaRocque
Assistant Secretary-General

Ms. Safiya Ali
General Counsel (ag)

ORGANISATION OF EASTERN CARIBBEAN STATES (OECS), ST. LUCIA

Dr. Len Ishmael
Director General
OECS Secretariat

Mr. Keith Nichols
Director, Environment and Sustainable Development Unit
OECS Secretariat

Mr. Peter A. Murray
OECS Secretariat

EUROPEAN UNION DELEGATION, GUYANA

Ambassador Geert Heikens
Head of Delegation

Delegation of the European Union to Guyana, Suriname, Trinidad & Tobago, Aruba and
Netherlands Antilles

APPENDIX 2 – MULTI-DISCIPLINARY WORKSHOP: LIST OF DELEGATES

ANTIGUA AND BARBUDA

- | | | |
|--------------------------------|---|---|
| Sen the Hon. Joanne M. Massiah | - | Minister of State
Ministry of Legal Affairs |
| Mr. Philmore James | - | Deputy Chief Fisheries Officer
Fisheries Division |
| Ms. Sandra Joseph | - | Senior Foreign Service Officer
Ministry of Foreign Affairs |

BARBADOS

- | | | |
|-------------------------|---|--|
| Mr. Stephen Willoughby | - | Chief Fisheries Officer
Fisheries Division |
| Ms. Donna K. Brathwaite | - | Deputy Solicitor General (ag)
Attorney-General's Chambers |
| Ms. Joy-Ann Skinner | - | Senior Foreign Service Officer (Ag.)
Ministry of Foreign Affairs and
Foreign Trade |

BELIZE

- | | | |
|-------------------|---|--|
| Mr. Mauro Gongora | - | Fisheries Officer
Fisheries Department |
| Mr. Oscar Ramjeet | | Solicitor General
Attorney-General's Ministry |
| Ms. Tasha Young | - | Foreign Service officer
Ministry of Foreign Affairs and Foreign Trade |

DOMINICA

- | | | |
|-----------------------------|---|--|
| Mr. Andrew Magloire | - | Chief Fisheries Officer
Fisheries Division |
| Mrs. Wynante Adrien-Roberts | - | Solicitor General
Ministry of Legal Affairs |
| Ms. Kisha Lewis | - | Foreign Service Officer
Ministry of Foreign Affairs |

GRENADA

- | | | |
|-------------------|---|-------------------------|
| Mr. Justin Rennie | - | Chief Fisheries Officer |
|-------------------|---|-------------------------|

		Fisheries Division
Mr. Marlon Glean	-	Legal Officer Ministry of Foreign Affairs
Ms. Ayesha Baisden	-	Legal Drafter Ministry of Legal Affairs
<u>GUYANA</u>		
Ms. Candida Daniels	-	Director Ministry of Foreign Affairs
Mr. Denzil Roberts	-	Chief Fisheries Officer Fisheries Department
Mr. Gary Baird	-	Fisheries Department Ministry of Agriculture
Mr. Kurth Rodrigues	-	Ministry of Foreign Affairs
<u>JAMAICA</u>		
Ms. Alison Stone-Roofe	-	Director Ministry of Foreign Affairs and Foreign Trade
Ms. Yvonne Crawford	-	Senior Legal Officer Ministry of Agriculture
Mr. O'Neil Francis	-	Crown Counsel Attorney General's Chambers
<u>MONTSERRAT</u>		
Mr. Alwyn Ponteen	-	Fisheries Officer Fisheries Division
Mr. Colin Fergus	-	Assistant Secretary Office of the Chief Minister
Ms. Alison Skerritt	-	Crown Counsel (Civil and Commercial) Attorney-General's Chambers
<u>ST. KITTS AND NEVIS</u>		
Mr. Marc Williams	-	Senior Fisheries Officer Department of Marine Resources
<u>SAINT LUCIA</u>		
Ms. Sarah George	-	Chief Fisheries Officer Department of Fisheries
Ms. Karen Bernard	-	Crown Council III Attorney-General's Chambers

Ms. Kimberly Louis	-	Foreign Service Officer Ministry of External Affairs, International Trade and Investment
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ST. VINCENT AND THE GRENADINES

Mr. Raymond Ryan	-	Chief Fisheries Officer Fisheries Division
Mrs. Sandy Phillips	-	Deputy Director of Foreign Policy and Research Ministry of Foreign Affairs, Foreign Trade and Consumer Affairs

SURINAME

Mr. Rene Lieveld		Director of Fisheries Department of Fisheries
Mrs. Eurdice Hofwijks-Koendjiharie	-	First Secretary Embassy of the Republic of Suriname

TRINIDAD AND TOBAGO

Amb. Gerald Thompson		Director, Treaties, International Agreements and Legal Division Ministry of Foreign Affairs
Ms. Christine Chan-A-Shing	-	Director of Fisheries Fisheries Division
Ms. Kimoy Thomas	-	Legal Officer Ministry of the Attorney-General

ASSOCIATE MEMBERS

ANGUILLA

Mr. James C. Gumbs	-	Director Department of Fisheries and Marine Resources
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INSTITUTIONS/ORGANISATIONS

ACP FISH II

Dr. Sandra Grant	-	Regional Manager for the Caribbean
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CARIBBEAN NETWORK OF FISHERFOLK ORGANISATION (CNFO)

Mr. Galston White	-	Coordinating Unit Antigua and Barbuda Fisheries Alliance Inc.
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CARIBBEAN REGIONAL FISHERIES MECHANISM (CRFM) SECRETARIAT

Mr. Hugh Saul	-	Executive Director
Mr. Milton Haughton	-	Deputy Executive Director
Mr. Delmar Angel Lanza	-	Manager Finance and Administration
Mr. Terrence Phillips	-	Programme Manager Fisheries Management and Development

CARIBBEAN REGIONAL FISHERIES MECHANISM (CRFM) SECRETARIAT (CONT'D)

Dr. Susan Singh-Renton	-	Programme Manager Research and Resource Assessment
Ms. Sherlene Audinett	-	Senior Secretary

ORGANISATION OF EASTERN CARIBBEAN STATES (OECS)

Mr. Peter A. Murray	-	Programme Officer Environment and Sustainable Development Unit
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UNIVERSITY OF THE WEST INDIES (BARBADOS)

Dr. Patrick McConney	-	Senior Lecturer CERMES
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CONSULTANTS

Dr. Winston McCalla	-	Legal Consultant
Mr. Christopher Hedley	-	Director, Globe Law Group

CARIBBEAN COMMUNITY (CARICOM) SECRETARIAT

Ambassador Lolita Applewhaite	-	Secretary-General (Ag.) Office of the Secretary-General
Ambassador Irwin LaRocque	-	Assistant Secretary-General Trade and Economic Integration
Ms. Safiya Ali	-	General Counsel (Ag.) Office of the General Counsel
Dr. Raghunath Mahabir	-	Programme Manager Conference Services
Mr. Lionel Persaud	-	Deputy Programme Manager Conference Services
Ms. Margaret Kalloo	-	Deputy Programme Manager Agricultural Development Unit

Mr. Nigel Durrant	-	Head, Agricultural Unit Office of Trade Negotiations
Mr. Ronald Joseph	-	Project Officer Conference Services
Ms. Barbara Vandyke	-	Project Officer Conference Services
Ms. Farah Arjune	-	Stenographer Conference Services
Ms. Denise Burrowes	-	Stenographer Conference Services
Mr. Edmund Norton	-	Office Assistant Administrative Services

APPENDIX 3 – WORKING PAPER

[Omitted for Final Report – see Annex 7]

Annex 4 – List of reports and documents consulted

1. Mandate as recorded in the “Report of the Fourteenth Inter-Sessional Meeting of the Conference of Heads of Government of the Caribbean Community, Reference: INS / HCG / 2003 / 14 REP
2. Towards the Development of A Regional Fisheries Policy: A Preliminary Draft Proposal by the Government of Barbados
3. Extract – Report of the First Meeting of the Caribbean Fisheries Forum on the CFP, 27 Mar., 2003
4. Extract – Report of the Second Meeting of the Caribbean Fisheries Forum on the CFP, 23 Apr., 2004
5. Report of the Meeting of Member States on the Common Fisheries, June 9th -10th, 2004, Georgetown, Guyana.
6. Paper on Delimitations of Marine Boundaries within CARICOM Nov. 2004
7. A Common Fisheries Regime for the Caribbean Sea (Carl Dundas and Carlyle Mitchell)
8. RFMO Discussion Paper, Nov. 2004
9. Report of the Third Meeting of the Working Group on the Common Fisheries Policy and Regime Kingstown, St. Vincent and the Grenadines, 29th – 30th November, 2004.
10. Report of the Regional Multidisciplinary Workshop on the Common Fisheries Policy and Regime, April 18 – 19, 2005, St. Kitts and Nevis
11. Extract - Third Meeting of the Caribbean Fisheries Forum on the CFP, 20 – 21 Apr, 2005
12. Some Thoughts on Hammering out a CARICOM Common Fisheries Policy by Milton Haughton, Oct. 13, 2005
13. Draft Report of the Study to review and Elaborate on the Social Economic and Linkage Issues that could impact on the Establishment of a Common Fisheries Policy and regime for CARICOM
14. Draft Report of the Meeting of the Ad Hoc Working Group on the Social, Economic and Linkages Issues that may impact the Establishment of a Common Fisheries Policy and regime, March 19, 2006, Trinidad and Tobago



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15. Report of the Second Ad Hoc Legal Working Group on the Preparation of A Common Fisheries Policy, April 7 – 8, 2006, Kingstown, St. Vincent and the Grenadines
16. Extract – Report of the Fourth Meeting of the Caribbean Fisheries Forum on the CFP, 11 – 12 Apr, 2006
17. Report of the Study Mission to Canada conducted July 9 – 22, 2006
18. Extract – Report of the First Special Meeting of the Caribbean Forum on the CFP, 23 – 24 Oct., 2006
19. Report of the Expanded Ad Hoc Legal Working Group on the Common Fisheries Policy and Regime, January 31 – February 2, 2007, St. George's Grenada
20. Progress Report on the CFP&R June 2007 (sent to Ministers by CARISEC)
21. Extract – Report of the Fifth Meeting of the Caribbean Fisheries Forum on the CFP, 3 – 4 May, 2007
22. Extract – Report of the Second Special Meeting of the Caribbean Forum on the CFP, 3 – 4 Oct., 2007
23. Office of the General Counsel - Legal Opinion, Common Fisheries Policy, 2008
24. Extract – Report of the Sixth Meeting of the Caribbean Fisheries Forum on the CFP, 8 – 9 May, 2008
25. Extract – Report of the Third Special Meeting of the Caribbean Forum on the CFP, 17 – 18 Sept., 2008
26. Extract – Report of the First Meeting of the CRFM Ministerial Council, 16 January, 2009
27. Report of the Meeting of the CRFM Multi-Disciplinary Working Group, 31 March – 1 April, 2009, Georgetown, Guyana
28. Extract – Report of the Fourth Special Meeting of the Caribbean Forum on the CFP, 20 Apr., 2009
29. Extract – Report of the First Special Meeting of the CRFM Ministerial Council, 12 May, 2009
30. Extract – Report of the Seventh Meeting of the Caribbean Fisheries Forum on the CFP, 29 – 30 Jul., 2009
31. Extract – Report of the Second Meeting of the CRFM Ministerial Council, 18 March, 2010



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32. Comments on the CFP received from Barbados, Trinidad and Tobago and Suriname, June 2010
33. Documents presented at the Second Special Meeting of the Ministerial Council on the CFP, July 28, 2010
34. Draft Agreement Establishing the Common Fisheries Policy dd. July 2010
35. Update on the Common Fisheries Policy, July 2010
36. Comments received Suriname, Barbados, Trinidad and Tobago and WIDECAST
37. Extract – Report of the Third Meeting of the CRFM Ministerial Council, 19 October, 2010
38. Document presented at the Third Meeting of the Ministerial Council on the CFP, October 19, 2010
39. Status Report on Development of the Common Fisheries Policy



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Annex 5 – Photographs of key activities and events



Photograph 1: Ambassador Applewhaite, CARICOM Secretary-General, addressing the Multi-Disciplinary Workshop



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Photograph 2: Dr Sandra Grant, ACP Fish II Regional Manager, addressing the Multi-Disciplinary Workshop



Photograph 3: Consultants making preparations for the Multi-Disciplinary Workshop with CFRE



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Photograph 4: The Consultants at work in the Multi-Disciplinary Workshop



Photograph 5: Delegates at the Multi-Disciplinary Workshop



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Photograph 6: Plenary Session of the Multi-Disciplinary Workshop



Photograph 7: CRFM Ministerial Council, 20 May



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Photograph 8: CRFM Ministerial Council, 20 May



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Annex 6

Draft Agreement on establishing the Caribbean Community Common Fisheries Policy



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Agreement establishing the Caribbean Community Common Fisheries Policy

The Participating Parties:

Being guided by the Principles and Rights enunciated in the Revised Treaty of Chaguaramas, which was signed by Heads of Government in Nassau, Bahamas on 5 July 2001, and by the Principles expressed in the Agreement establishing the Caribbean Regional Fisheries Mechanism, which was signed in Belize City, Belize on 4 February 2002;

Conscious of the decision of the Conference of Heads of Government of the Caribbean Community at the Fourteenth Inter-Sessional Meeting held in Trinidad and Tobago, 14 to 15 February 2003, to elaborate a Common Fisheries Regime;

Conscious also of the directive of the Ministers responsible for fisheries at the First Meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism, held in Saint Vincent and the Grenadines on 16 January 2009, to elaborate the Common Fisheries Policy and defer consideration of matters relating to the Common Fisheries Regime;

Committed to fostering cooperation and collaboration among Participating Parties in the conservation, management and sustainable utilisation of fisheries resources and related ecosystems for the welfare and well-being of the peoples of the Caribbean;

Mindful of the relevant provisions of the 1982 United Nations Convention on the Law of the Sea; the 1983 Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region; the 1990 Protocol concerning Specially Protected Areas and Wildlife in the Wider Caribbean; the 1992 United Nations Convention on Biological Diversity; the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the 1994 Barbados Programme of Action for the Sustainable Development of Small Island Developing States; the 1995 FAO Code of Conduct for Responsible Fisheries; the 1995 United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; the 2002 Johannesburg Declaration on Sustainable Development and the Plan of Implementation of the World Summit on Sustainable Development; the 2005 Mauritius Strategy for the Implementation of the Barbados Programme of Action; and the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

Recognising the Caribbean Sea as a large marine ecosystem that is shared by Members of the Caribbean Community and non- Member States and Territories;

Recognising also the importance of fisheries to social and economic development, food and nutrition security and the welfare of the peoples of the Caribbean;

Conscious that there exists within the jurisdiction of Participating Parties underexploited or unexploited fisheries resources of great value which represent a safeguard for the future development of fisheries and, when used sustainably, present

an opportunity to increase the contribution of fisheries to the social and economic development of the Caribbean Community;

Aware that many commercial species are fully or overexploited and are in need of management, conservation and rehabilitation;

Aware also that certain living marine resources, which are of interest to the peoples of the Caribbean, are shared, straddling or highly migratory and in some cases are harvested by Third States;

Conscious of the need to promote the sustainable utilisation of fisheries resources and the need to protect associated ecosystems through the efficient development, management and conservation of such resources;

Noting that Article 60 of the Revised Treaty provides that the Caribbean Community, in collaboration with competent national, regional and international agencies and organisations, shall promote the development, management and conservation of the fisheries resources in and among the Members of the Caribbean Community on a sustainable basis;

Noting also that Article 4(a) of the Agreement establishing the Caribbean Regional Fisheries Mechanism has among its objectives the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of the Members of CRFM;

Determined to ensure the long-term sustainable utilisation and conservation of the living aquatic resources within the jurisdictions of Participating Parties;

Recalling the United Nations General Assembly Resolutions supporting sustainable ocean management in the Caribbean;

Convinced that the implementation of the Caribbean Community Common Fisheries Policy will contribute to the enhanced treatment of the Caribbean Sea as a special area in the context of sustainable development;

Recognising the need to develop the Caribbean Community Common Fisheries Policy in consultation with all relevant parties, including representatives of fisherfolk organisations;

Have agreed as follows:

Article 1 Definitions

For the purpose of this Agreement, the following definitions shall apply:

- (a) "access agreement" means an agreement concluded between or among Participating Parties or between or among one or more Participating Parties and one or more Third States, for the purpose of exploiting the fisheries resources of a State or group of States;
- (b) "aquaculture" means all activities in fresh, brackish or salt waters aimed at the husbandry or culturing of fish or aquatic flora and includes ranching and hatchery-reared re-stocking practices;
- (c) "aquatic flora" means any aquatic plant, including parts or derivatives;

- (d) "Competent Agency" means an organisation designated by Participating Parties to support them in achieving the objectives of this Agreement;
- (e) "conservation" means the maintenance, improvement and use of natural resources according to principles that will assure both the sustainability of those resources and economic and social benefits for present and future generations;
- (f) "ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
- (g) "ecosystem approach to fisheries management" means the balancing of diverse societal objectives, by taking account of the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries;
- (h) "fish" means any aquatic animal, including parts and derivatives;
- (i) "fisheries management and development plan" means a specific plan, policy or strategy for the management and development of single-species or multi-species fisheries in a sustainable manner;
- (j) "fisheries resources" means any harvestable fish or aquatic flora, natural or cultured;
- (k) "fishing" means:
 - i) the actual or attempted searching for, catching, taking or harvesting of fisheries resources;
 - ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fisheries resources, for any purpose;
 - iii) placing, searching for or recovering fish aggregating devices or associated electronic equipment, such as radio beacons;
 - iv) any other operations at sea, on a lake, in a river or within any other water body in connection with, or in preparation for, any activity described in paragraphs (i) to (iii), including transshipment; and
 - v) use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in paragraphs (i) to (iv),
 but does not include any operation related to emergencies involving the health or safety of crew members or the safety of a vessel;
- (l) "fishing effort" means the level of fishing, as may be defined, *inter alia*, by the number of fishing vessels, the number of fishers, the amount of fishing gear and technology that may enhance catchability and the time spent on fishing or searching for fish;
- (m) "fishing vessel" means any vessel, boat, ship or other craft, including associated equipment, which is used for or is intended to be used for fishing;
- (n) "Participating Party" means any State or Territory that has signed or acceded to this Agreement;

- (o) "precautionary approach to fisheries management" means an approach to management according to which:
- i) Participating Parties shall be more cautious when information is uncertain, unreliable or inadequate; and
 - ii) the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures;
- (p) "Revised Treaty" means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy, signed by Heads of Government in Nassau, Bahamas on 5 July 2001;
- (q) "Secretary-General" means the Secretary-General of the Caribbean Community;
- (r) "SPS" means sanitary and phytosanitary standards;
- (s) "stock" means fisheries resources in a given management area; and
- (t) "Third State" means a State or Territory that is not a party to this Agreement.

Article 2 Establishment of the Caribbean Community Common Fisheries Policy

This Agreement establishes the Caribbean Community Common Fisheries Policy.

Article 3 Participation

Participation in this Agreement is open to:

- (a) Members of the Caribbean Community, in accordance with Article 25 or Article 26; and
- (b) any other Caribbean State or Territory that is, in the opinion of the Participating Parties, able and willing to exercise the rights and assume the obligations under this Agreement, in accordance with Article 26.

Article 4 Vision, Goal and Objectives

4.1 Vision

The vision of the Caribbean Community Common Fisheries Policy is effective cooperation and collaboration among Participating Parties in the conservation, management and sustainable utilisation of the fisheries resources and related ecosystems in the Caribbean region in order to secure the maximum benefits from those resources for the Caribbean peoples and for the Caribbean region as a whole.

4.2 Goal

The goal of the Caribbean Community Common Fisheries Policy is to establish, within the context of the Revised Treaty, appropriate measures for: the conservation, management, sustainable utilisation and development of fisheries resources and related ecosystems; the building of capacity amongst fishers and the optimisation of the social and economic returns from their fisheries; and the promotion of competitive trade and stable market conditions, so as to realise the vision expressed in Article 4.1.

4.3 Objectives

The objectives of the Caribbean Community Common Fisheries Policy are to:

- (a) promote the sustainable development of fishing and aquaculture industries in the Caribbean region as a means of, *inter alia*, increasing trade and export earnings, protecting food and nutrition security, assuring supply to Caribbean markets and improving income and employment opportunities;
- (b) develop harmonised measures and operating procedures for sustainable fisheries management, post-harvest practices, fisheries research and fisheries trade and the administration of the fishing industry;
- (c) improve the welfare and livelihoods of fishers and fishing communities;
- (d) prevent, deter and eliminate illegal, unreported and unregulated fishing, including by promoting the establishment and maintenance of effective monitoring, control, and surveillance systems;
- (e) build the institutional capabilities of Participating Parties, *inter alia*, to conduct research, collect and analyse data, improve networking and collaboration among Participating Parties, formulate and implement policies and make decisions;
- (f) integrate environmental, coastal and marine management considerations into fisheries policy so as to safeguard fisheries and associated ecosystems from anthropogenic threats and to mitigate the impacts of climate change and natural disasters;
- (g) transform the fisheries sector towards being market-oriented, internationally-competitive and environmentally-sustainable, based on the highest international standards of quality assurance and sanitary and phytosanitary systems;
- (h) strengthen, upgrade and modernise fisheries legislation; and
- (i) facilitate the establishment of a regime for SPS for the fisheries sector.

Article 5 Fundamental Principles

The following fundamental principles shall guide the implementation of this Agreement:

- (a) use of the best available scientific information in fisheries management decision-making, taking into consideration traditional knowledge concerning the resources and their habitats as well as environmental, economic and social factors;
- (b) application of internationally-recognised standards and approaches, in particular the precautionary approach to fisheries management and the ecosystem approach to fisheries management;
- (c) the principle that the level of fishing effort should not exceed that commensurate with the sustainable use of fisheries resources;
- (d) the participatory approach, including consideration of the particular rights and special needs of traditional, subsistence, artisanal and small scale fishers;
- (e) principles of good governance, accountability and transparency, including the equitable allocation of rights, obligations, responsibilities and benefits; and

- (f) the principle of subsidiarity, in particular that the Competent Agency will only perform those tasks which cannot be more effectively achieved by individual Participating Parties.

Article 6 Scope

- 6.1. The Agreement shall apply to: the development and management of fisheries and aquaculture; the conservation, sustainable development and management of fisheries resources and related ecosystems; the production, processing, marketing and trading of fishery and aquaculture products; and to the welfare of fishers.
- 6.2. The Agreement shall apply within areas under the jurisdiction of Participating Parties, on board fishing vessels flying the flag of a Participating Party and, subject to the primary jurisdiction of the flag State when fishing takes place on the high seas or the coastal State when fishing takes place in the waters of a Third State, to nationals of Participating Parties.

Article 7 General Undertakings on Implementation

- 7.1. Participating Parties shall take all appropriate measures to secure the fulfilment of obligations arising under this Agreement and shall abstain from any measures which could jeopardise the attainment of its objectives.
- 7.2. Participating Parties undertake to adopt, as appropriate, detailed rules for the implementation of this Agreement, in particular by preparing Protocols in accordance with Article 20.
- 7.3. Participating Parties undertake to establish or designate a regional organisation as the Competent Agency with responsibility for implementing this Agreement and, as appropriate, any Protocols adopted under it and, if necessary, to establish such an organisation by means of a Protocol adopted under Article 20.

Article 8 Role of the Competent Agency

- 8.1. The Competent Agency, where requested by one or more Participating Parties, and in accordance with the principle of subsidiarity in Article 5(f), shall cooperate with and provide assistance to those Participating Parties in order to support them in achieving the objectives of this Agreement or in discharging their obligations under it.
- 8.2. The functions which may be performed by the Competent Agency pursuant to Article 8.1, shall include:
- (a) providing technical assistance and advice in connection with the implementation of this Agreement, including where appropriate technical assistance and advice on national policy, management or law or on subregional, regional or global policy, management or law;
 - (b) making recommendations on any of the matters referred to in paragraph (a);
 - (c) coordinating or undertaking data collection, research and development activities;

- (d) providing coordination or cooperation facilities, services or mechanisms, as may be required to fulfil the objectives of this Agreement;
 - (e) identifying and mobilising technical and financial resources, in collaboration with multilateral and bilateral donor agencies, to build the research, administrative and management capacities of Participating Parties;
 - (f) supporting Participating Parties in their relations with Third States, directly or in relevant international organisations, including by providing representation at the international level of the Participating Parties collectively;
 - (g) any other functions which may be requested by one or more Participating Parties for purposes related to implementation of this Agreement.
- 8.3. In providing assistance and facilitation under Article 8.1 and in carrying out its functions under this Agreement, the Competent Agency shall:
- (a) give effect, as far as possible, to the Vision, Goal and Objectives set out in Article 4; and
 - (b) be guided by the Principles set out in Article 5 and by applicable principles set out in the Community Agricultural Policy and the Fisheries Management and Development provisions of the Revised Treaty and by principles provided for in any other applicable international agreements concerning fisheries.
- 8.4. Participating Parties and the Competent Agency shall agree on rules of procedure, including as necessary any budgetary contributions or other financial regulations, for the carrying out functions by the Competent Agency under this Agreement.
- 8.5. The Participating Parties shall review the role and functions set out for the Competent Agency by this Agreement and if necessary shall modify, supplement or remove those functions by means, as appropriate, of a Protocol adopted under Article 20 or by amendment to this Agreement under Article 22.

Article 9 Access to Fisheries Resources

9.1. Without prejudice to the jurisdiction and authority of Participating Parties over fisheries resources in areas under their national jurisdiction, and existing obligations under the Revised Treaty, Participating Parties may consider entering into:

- (a) arrangements, including access agreements, with other Participating Parties for the purpose of providing access to fishing opportunities in their waters; and
- (b) such arrangements or access agreements with Third States or international organisations; and

in doing so, subject to the limits of their capabilities, shall take account of the applicable provisions of the United Nations Convention on the Law of the Sea and other instruments, including the objective of optimum utilisation and the provision of access to surplus fisheries resources.

9.2. Participating Parties shall seek to:

- (a) develop opportunities and to promote the equal participation of Participating Parties in fisheries on the high seas, and

(b) develop opportunities in areas within the national jurisdiction of Third States, and to this end shall collaborate directly or through the Competent Agency and other competent regional and international fisheries bodies.

Article 10 Fisheries Sector Development

Participating Parties, to the extent of their capabilities, will endeavour to promote and adopt measures to enhance the development of the fisheries and aquaculture sectors and to improve the welfare and socio-economic conditions of fishers and fishing communities, including, *inter alia*, by:

- (a) improving the business, financial and insurance environment;
- (b) promoting and facilitating joint ventures;
- (c) promoting access to training;
- (d) supporting capital investment;
- (e) promoting the involvement of stakeholders, in particular in planning and management activities, including by supporting the formation and strengthening of fisherfolk organisations; and
- (f) supporting and protecting the rights of traditional, subsistence, artisanal and small-scale fishers.

Article 11 Statistics and Research

The Participating Parties, acting directly and, where appropriate, in collaboration with other Participating Parties, Third States, the Competent Agency or relevant international organisations, and in an effort to achieve the objectives of this Agreement, are required, *inter alia*, to:

- (a) collect and compile fisheries catch and fishing effort, registration and licensing data as well as biological, ecological, economic, social, aquaculture and any other relevant data;
- (b) conduct research in order to:
 - i) ascertain the status of fish stocks;
 - ii) determine the effects of environmental changes on fisheries and aquatic ecosystems;
 - iii) analyse the effectiveness of management and conservation measures;
 - iv) evaluate the social and economic performance of fisheries and aquaculture;
 - v) determine the development potential of underutilised and unutilised fisheries resources; and
 - vi) otherwise contribute to the fulfilment of an objective of this Agreement;
- (c) develop and maintain national and regional databases relating to (a) and (b) and develop and adopt appropriate standards for data and information sharing ; and

- (d) analyse data and information collected and, subject to any confidentiality requirements, to disseminate it periodically to Participating Parties and the Competent Agency.

Article 12 Conservation and Management of Fisheries Resources

- 12.1. The Participating Parties shall formulate, adopt, implement and revise conservation and management measures and, where appropriate, fisheries management and development plans on the basis of the best available information, including traditional knowledge.
- 12.2. The Participating Parties shall formulate, adopt and implement conservation and management measures and development strategies on the basis of:
- (a) fisheries management and development plans and other fishery-specific conservation, management and recovery plans;
 - (b) the Fundamental Principles set out in Article 5; and
 - (c) as appropriate, other provisions of this Agreement and other relevant international standards in fisheries management.
- 12.3. In implementing Article 12.1, Participating Parties shall, where appropriate, seek to adopt harmonised measures, legislation, plans or strategies.
- 12.4. The Participating Parties shall cooperate with regional fisheries management organisations and, as appropriate, other international organisations in the management of shared, straddling and highly migratory fish stocks.
- 12.5. Participating Parties shall discourage the use of measures and practices that will contribute to unsustainable fishing.

Article 13 Registration and Licensing

- 13.1. Participating Parties shall take into account the status of available fisheries resources and existing fishing capacity when registering and licensing fishing vessels, fishers and other operators in the fisheries and aquaculture sector.
- 13.2. In order to maintain the balance between fishing capacity and fisheries resources, Participating Parties, to the extent of their capabilities, shall, *inter alia*:
- (a) establish and maintain a national register of fishing vessels flying its flag;
 - (b) establish and maintain a national licensing system for fishing vessels flying its flag;
 - (c) establish and maintain a record of licences or authorisations issued to fishing vessels, fishers and other operators in the fisheries and aquaculture sector; and
 - (d) cooperate with the Competent Agency to establish and maintain a regional fishing fleet register.
- 13.3. In implementing Article 13.2, Participating Parties, where appropriate through the Competent Agency, shall consider the development of harmonised procedures or common standards in relation to licensing systems.

- 13.4. The Participating Parties shall, in accordance with agreed procedures, share with the Competent Agency information collected through the national registers established under Article 13.2(a) and the records under Article 13.2(c) for the purpose of maintaining a regional register under Article 13.2(d).

Article 14 Inspection, Enforcement and Sanctions

- 14.1. Each Participating Party, to the extent of its capabilities, shall develop, either directly or through cooperation with other Participating Parties or the Competent Agency, as appropriate, such inspection and enforcement measures as are necessary to ensure compliance with:
- (a) the rules contained in and adopted pursuant to this Agreement;
 - (b) national regulations relating to fisheries; and
 - (c) rules of international law, binding on the Participating Party concerned.
- 14.2. The inspection and enforcement measures referred to in Article 14.1 shall apply to rules applicable in the territory of the Participating Party, in waters under its jurisdiction, on fishing vessels flying its flag and, where appropriate, and subject to the primary jurisdiction of the flag State when fishing takes place on the high seas or the coastal State when fishing takes place in the waters of a Third State, to its nationals, wherever they may be.
- 14.3. In implementing Article 14.1, Participating Parties shall, *inter alia*:
- (a) monitor, control and undertake surveillance of their maritime space and co-operate in monitoring, controlling and undertaking surveillance of areas contiguous to their maritime space in order to prevent, deter and eliminate illegal, unreported and unregulated fishing as appropriate;
 - (b) establish an appropriate vessel monitoring system to monitor the position and activity of vessels flying their flag;
 - (c) adopt port and "at sea" inspection schemes;
 - (d) take inspection and enforcement measures necessary to ensure compliance with the rules of this Agreement;
 - (e) ensure that appropriate and effective measures are taken against violators of the applicable rules and in particular that such measures are capable, in accordance with the relevant provisions of national law, of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements.

Article 15 Confidentiality and Intellectual Property Rights

- 15.1. Participating Parties shall retain ownership of any data, information or product made available to other Participating Parties or to the Competent Agency as a result of the implementation of this Agreement.
- 15.2. All intellectual property rights in data, documents and products developed by the Competent Agency in the course of implementing this Agreement shall, subject to and in accordance with any relevant contractual obligation, belong to the Competent Agency.

- 15.3. All intellectual property rights in data, documents and products developed by the Competent Agency from material made available by one or more Participating Parties shall jointly belong to the Competent Agency and the Participating Parties involved.
- 15.4. The Competent Agency shall make available to public institutions and others, for non-commercial and educational purposes, such of its informational products as it considers appropriate.
- 15.5. The Competent Agency and Participating Parties shall maintain the confidentiality of any proprietary information or any other information provided on a confidential basis by any other Participating Party and shall refrain from disclosing such information to third parties or using it for purposes other than those for which it was provided.
- 15.6. The identity of individuals from whom research data or information is obtained shall be kept strictly confidential. No information revealing the identity of any individual shall be included in any report or other communication, unless the individual concerned has given prior consent in writing to such inclusion.

Article 16 Dissemination of Information

- 16.1. Participating Parties shall disseminate to other Participating Parties and to the Competent Agency:
 - (a) statistical data on fisheries;
 - (b) information on research findings;
 - (c) information on proposed management programmes;
 - (d) information resulting from implementation of management programmes; and
 - (e) information on the activities taken for the implementation of this Agreement.
- 16.2. Participating Parties and the Competent Agency shall disseminate relevant information to stakeholders to enable them to be familiar with regional and international developments in fisheries and thereby facilitate informed decision-making and widespread acceptance of and participation in this Agreement.
- 16.3. Participating Parties shall promptly notify the Competent Agency and other Participating Parties of any localised threats, whether actual or potential, to their fisheries and marine ecosystems which may cause harm to the fisheries resources, environment or economic interest of other Participating Parties.
- 16.4. Nothing in this Agreement shall be deemed to require a Participating Party, in fulfilment of its obligations under this Agreement, to supply information, the disclosure of which is contrary to its national security interests.

Article 17 Public Awareness

The Participating Parties shall promote public awareness of good conservation, exploitation and management policies and practices in relation to this Agreement by, *inter alia*:

- (a) informing stakeholders of the status of this Agreement;

- (b) strengthening regional and subregional institutions working with citizens, especially fishers and fishing communities, with a view to increasing knowledge and understanding of methods of conserving, sustaining and preserving living aquatic resources and of avoiding overexploitation of them;
- (c) collaborating with relevant educational institutions to introduce sustainable use of living aquatic resources into their programmes;
- (d) establish research and education programmes to raise awareness of the impact of global warming, climate change, sea level rise and other environmental changes on the fisheries sector; and
- (e) promoting recognition of the Caribbean Sea as a special area in the context of sustainable development.

Article 18 Marketing and Trade of Fisheries Resources

18.1. The Participating Parties, acting where appropriate in collaboration with other Participating Parties, Third States, the Competent Agency or relevant international organisations, and in an effort to achieve the objectives of this Agreement, shall develop, *inter alia*:

- (a) harmonised food quality assurance legislation;
- (b) harmonised intra-regional SPS measures;
- (c) common marketing standards for fisheries and aquaculture products; and
- (d) national or common policies, measures and standards to:
 - i) encourage stable market conditions;
 - ii) promote the production and marketing of fishery products;
 - iii) develop new and existing markets in fishery products including external markets for the Caribbean region's fisheries products;
 - iv) enhance intelligence on developments in internal and external markets at all levels;
 - v) facilitate trade between the Participating Parties;
 - vi) strengthen relevant human, institutional and technological capacities, including the transfer and development of relevant technologies; and
 - vii) otherwise improve the management of fish-handling practices, marketing or trade in the Participating Parties.

18.2. In implementing Article 18.1, Participating Parties shall act consistently with their obligations under relevant international agreements, and in particular those under the Revised Treaty and the World Trade Organisation agreements, where applicable, and shall also take into account relevant international standards on trade, marketing and SPS.

Article 19 Links with International Organisations

In order to promote the objectives of this Agreement, the Competent Agency shall facilitate the development of strategic alliances and partnerships with relevant agencies created by multilateral environmental agreements as well as regional fisheries

management organisations and arrangements and other relevant national, regional and international agencies and organisations, whether governmental or non-governmental.

Article 20 Protocols

20.1. Participating Parties undertake to prepare Protocols relating to:

- (a) the Competent Agency;
- (b) research on fisheries and associated ecosystems;
- (c) harmonisation of fisheries legislation;
- (d) cooperation in monitoring, control and surveillance to combat illegal, unregulated and unreported fishing;
- (e) establishment of a common fisheries zone;
- (f) aquaculture;
- (g) establishment of a regional fisheries management organisation or arrangement;
- (h) sanitary and phytosanitary measures;
- (i) data and information sharing;
- (j) enforcement;
- (k) settlement of disputes; and
- (l) any other matter for which protocols are necessary for the implementation of this Agreement.

20.2. Pending the preparation of the Protocols set out in Article 20.1, Participating Parties may cooperate on arrangements of a provisional nature in the above fields.

20.3. Participating Parties shall agree, with respect to each Protocol, on the procedure for the preparation and adoption of each Protocol.

20.4. Protocols which have been concluded under this Agreement shall form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement includes a reference to the Protocols.

Article 21 Reporting, Review and Development

21.1. The Competent Agency shall submit annual reports to the Council for Trade and Economic Development (COTED) and the Council for Foreign and Community Relations (COFCOR) on the implementation of this Agreement.

21.2. Participating Parties shall, in light of changing circumstances, and in any event no later than 5 years after its entry into force, review this Agreement, as may be required to achieve its vision, goal and objectives.

21.3. The review and development referred to in Article 21.2 may include, *inter alia*:

- (a) consultation with stakeholders to assess the impacts of this Agreement and, if required, development of proposals for its implementation or amendment;

- (b) provision by the Competent Agency of technical support for the consultations and the analysis of the consultation results in order to inform decision-making;
- (c) such other formal procedures or other methods as Participating Parties consider necessary to facilitate the implementation of this Agreement.

Article 22 Amendments

- 22.1. A Participating Party may, by written communication addressed to the Secretary-General, propose an amendment to this Agreement.
- 22.2. This Agreement may be amended by the unanimous decision of the Participating Parties.
- 22.3. An amendment to this Agreement shall enter into force one month after the date on which the last Participating Party has signed the amendment or such other date as the Participating Parties have agreed.

Article 23 Dispute Settlement

The procedures for the settlement of disputes set out in the Revised Treaty shall apply *mutatis mutandis* to the settlement of disputes concerning the interpretation or application of this Agreement, whether or not the parties to the dispute are Parties to the Revised Treaty.

Article 24 Depositary

The Secretary-General shall be the depositary of this Agreement and any amendments or revisions thereto. The depositary shall register this Agreement with the Secretary-General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 25 Signature

This Agreement is open for signature by any Member of the Caribbean Community.

Article 26 Accession

Members of the Caribbean Community and, subject to the consent of a majority of Participating Parties, any other Caribbean State or Territory, may accede to this Agreement after it has entered into force.

Instruments of Accession shall be deposited with the Secretary-General who shall transmit certified copies to Participating Parties.

Article 27 Entry into Force

This Agreement shall enter into force signature by eight Members of the Caribbean Community under Article 25.

Article 28 Withdrawal

- 28.1. A Participating Party may withdraw from this Agreement by giving written notice to the Secretary-General. The withdrawal shall take effect one year after the date of notification unless the notification specifies a later date.
- 28.2. A notification given under Article 28.1 may be cancelled at any time before it becomes effective by giving further written notice to the Secretary-General.
- 28.3. The Secretary-General shall promptly notify the other Participating Parties of any notification received under Article 28.1 or 28.2.
- 28.4. Withdrawal from this Agreement shall not:
- (a) affect any financial obligations incurred by the withdrawing Participating Party prior to its withdrawal becoming effective; or
 - (b) remove or limit any obligations in respect of confidentiality of data or intellectual property rights to which the withdrawing Participating Party was subject prior to its withdrawal becoming effective.

IN WITNESS WHEREOF the Participating Parties, being duly authorised thereto, have appended their signature to this Agreement.

DONE AT _____, this _____ day of _____ Two
Thousand and Eleven.

Annex 7

Other Documents and Outputs

Annex 7a

Working Paper for the Multi-Disciplinary Workshop



Project Funded by the European Union.

“The content of this publication are the sole responsibility of the author and can in no way be taken to reflect the views of the European Union”.

Draft Agreement Establishing the Caribbean Common Fisheries Policy

Working Paper for the Multidisciplinary Workshop,
Georgetown, Guyana, 12-14 April 2011

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About this Document

1. This document has been prepared by international legal consultants for the Regional Workshop in Georgetown, Guyana from 12-14 April. The purpose of the Workshop is to finalise the text for the Agreement on the Caribbean Common Fisheries Policy.
2. A detailed background leading up to the current process was provided to participants in an Information Note sent from CRFM in March.

Terms of Reference and Methodology

3. Funding was secured by the CRFM Secretariat under the EU-funded ACP Fish II Programme to engage two international legal consultants to assist in finalizing the Common Fisheries Policy. Under a contract awarded to IBF Consulting, Belgium, two senior consultants were engaged – Christopher Hedley (Team Leader/Key Expert 1; Director, Globe Law Group) and Winston McCalla (Key Expert 2; Independent Consultant). The project commenced in late February with a meeting between the Experts and CRFM.
4. The terms of reference required the consultants to consider the text of the draft Agreement as it stood at the commencement of the assignment, to consult with selected countries and to present a revised draft for consideration at a regional workshop.
5. This text that was used as the base document the April 2010 text (considered at the meeting of the CRFM Forum). This text is the same as the July 2010 text, which was submitted to the Second Special Meeting of the CRFM Ministerial Council, held in St Lucia on 28 July 2010 (see agenda item 5 of the documents of that meeting).
6. The tasks undertaken by the Experts consisted principally of:
 - a. Initial meeting with CRFM (21 to 24 February)
 - b. Review of all background materials relative to the CFP process
 - c. Independent technical review of the 2010 text, to improve and update the text in light of current international best practices and standard
 - d. Consultation with selected countries (Belize, Barbados, Guyana, St Lucia, Suriname, Trinidad ad Tobago)
 - e. Refinement of the draft text for the Workshop.
7. An essential element of the Experts' approach was to avoid reinventing the wheel. The objective was not to significantly (or at all) alter the substance of the CFP text, unless to present a compromise text to accommodate outstanding differences of opinion. The vast majority of changes, however, are of a technical nature, designed to improve the clarity, usefulness and quality of the text in line with best practices for drafting international fisheries instruments.

Using this Document

8. Part 1 of this document presents the complete draft of the text for consideration at the Regional Workshop. It is important to note that the Experts do not understand this to be a final text – it is the basis for future, and hopefully final, discussions at the Workshop. During the Workshop, the Experts will be available to continue to work on redrafting and refining the text of the Agreement to meet participants requirements.
9. Part 2 of this document seeks to compare the new draft text with the April 2010 version. The texts are presented side by side, Article by Article, so as to aid identification of the changes proposed. Additional comments are made after each Article to explain the Experts rationale or to highlight specific issues for consideration.
10. Major changes are highlighted in yellow. Please note that not all changes are highlighted.

Part 1: Complete Version

Draft Agreement establishing the Caribbean Common Fisheries Policy

The Participating Parties:

Being guided by the Principles and Rights enunciated in the Revised Treaty of Chaguaramas, which was signed by Heads of Government in Nassau, Bahamas, on 5 July 2001, and by the Principles expressed in the Agreement Establishing the Caribbean Regional Fisheries Mechanism, which was signed in Belize City, Belize on 4 February 2002;

Conscious of the decision of the Conference of Heads of Government of the Caribbean Community at the Fourteenth Inter-Sessional Meeting held in Trinidad and Tobago, 14 -15 February, 2003, to elaborate a Common Fisheries Regime;

Conscious also of the directive of the Ministers responsible for fisheries at the First Meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism, held in Saint Vincent and the Grenadines, 16 January 2009, to elaborate the Common Fisheries Policy and defer consideration of matters relating to the Common Fisheries Regime;

Committed to fostering cooperation and collaboration among Participating Parties in the conservation, management and sustainable utilization of fisheries resources and related ecosystems for the welfare and well-being of the people of the Caribbean;

Mindful of the relevant provisions of the 1982 United Nations Convention on the Law of the Sea; the 1983 Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region; the 1990 Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean; the 1992 United Nations Convention on Biological Diversity; the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the 1994 Barbados Programme of Action for the Sustainable Development of Small Island Developing States; the 1995 FAO Code of Conduct for Responsible Fisheries; the 1995 United Nations Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; the 2002 Johannesburg Declaration on Sustainable Development; the Plan of Implementation of the World Summit on Sustainable Development and the 2005 Mauritius Strategy for the Implementation of the Barbados Programme of Action; and the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

Conscious that there exists within the jurisdiction of Participating Parties underexploited or unexploited fisheries resources of great value which represent a safeguard for the future development of fisheries and, if used sustainably, present an opportunity to further the contribution of fisheries to the social and economic development of the Caribbean Community;

NEW CLAUSE ON CONTRIBUTION OF FISHERIES TO ECONOMIC DEVELOPMENT. FOOD SECURITY

CONSISTENCY OF TERMS – MEMBER STATES, CARICOM MEMBERS, ETC.

Aware that many commercial species are fully or overexploited and are in need of management, conservation and rehabilitation;

Aware also that certain living marine resources, which are of interest to the peoples of the Caribbean Region, are shared, straddling or highly migratory and in some cases are harvested by non-Participating Parties;

Conscious of the need to promote the sustainable utilisation of fisheries resources and the need to protect associated ecosystems through the efficient development, management and conservation of such resources;

Noting that Article 60 of the Revised Treaty provides that the Caribbean Community, in collaboration with competent national, regional and international agencies and organisations, shall promote the development, management and conservation of the fisheries resources in and among Member States on a sustainable basis;

Noting also that Article 4 (a) of the Agreement Establishing the Caribbean Regional Fisheries Mechanism has among its objectives the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of Member States;

Determined to ensure the long-term sustainable utilisation and conservation of the living aquatic resources within the jurisdictions of **Participating Parties**;

Recognizing the Caribbean Sea as a large marine ecosystem;

Recalling the United Nations General Assembly Resolutions supporting sustainable ocean management in the Caribbean, including the Resolutions on recognition of the Caribbean Sea as an Area of Special Importance in the context of sustainable developed, on promoting and integrated management approach to the Caribbean Sea area in the context of sustainable development and towards the sustainable development of the Caribbean Sea for present and future generations;

Convinced that the implementation of the Common Fisheries Policy will contribute to the enhanced treatment of the Caribbean Sea as a special area in the content of sustainable development;

Recognizing the need to develop the Common Fisheries Policy in consultation with all relevant parties, including representatives of fisherfolk organisations;

Have agreed as follows:

Article 1 Definitions

For the purpose of this Agreement the following definitions shall apply:

- a) "access agreement" means an agreement concluded between or among Participating Parties or between or among one or more Participating Parties and one or more non-Participating Parties, including through CRFM or other international organizations or arrangements, for the purpose of exploiting the fisheries resources of a State or group of States.
- b) "aquaculture" means all activities in fresh, brackish or salt waters aimed at the husbandry or culturing of aquatic plants and animals and includes ranching and hatchery-reared re-stocking practices.
- c) "aquatic flora" means any aquatic plant, including parts or derivatives;
- d) "conservation" means the maintenance, improvement and use of natural resources according to principles that will assure both the sustainability of those resources and economic and social benefits for present and future generations;
- e) "CRFM" means the Caribbean Regional Fisheries Mechanism;
- f) "ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
- g) "ecosystem approach to fisheries management" means the balancing of diverse societal objectives, by taking account of the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries;

- h) “fish” means any aquatic animal, including parts and derivatives;
- i) “fisheries management plan” means a specific plan, policy or strategy for the management and development of single-species or multi-species fisheries in a sustainable manner;
- j) “fisheries resources” means any harvestable fish or aquatic flora, natural or cultured;
- k) “fishing” means–
 - i) the actual or attempted searching for, catching, taking or harvesting of fisheries resources;
 - ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fisheries resources, for any purpose;
 - iii) placing, searching for or recovering fish aggregating devices or associated electronic equipment, such as radio beacons;
 - iv) any other operations at sea, on a lake or in a river in connection with, or in preparation for, any activity described in paragraphs (i) to (iii), including transshipment; and
 - v) use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in paragraphs (i) to (iv)
 but does not include any operation related to emergencies involving the health or safety of crew members or the safety of a vessel.
- l) “fishing effort” means the level of fishing, as may be defined, *inter alia*, by the number of fishing vessels, number of fishers, amount of fishing gear and technology that may enhance catchability and the time spent on fishing or searching for fish;
- m) “fishing vessel” means any vessel, boat, ship or other craft, including associated equipment, which is used for or is intended to be used for fishing;
- n) “limit reference point” means a point indicative of the limits of fishery exploitation which should not be surpassed because of negative impacts on the self-renewal capacity of the stock, uncertainty in population dynamics and increased likelihood of stock collapse or impaired recruitment;
- o) “Participating Party” means any State or Territory that has signed or acceded to this Agreement;
- p) “precautionary approach to fisheries management” means an approach to management according to which-
 - i) Participating Parties shall be more cautious when information is uncertain, unreliable or inadequate; and
 - ii) the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.
- q) “Revised Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy, signed by Heads of Government in Nassau, Bahamas on 5 July 2001;
- r) “safe biological limits” means a range of indicator values representing stock status within which there is a low risk of transgressing certain limit reference points;
- s) “Secretary-General” means the Secretary-General of the Caribbean Community;
- t) “SPS” means sanitary and phytosanitary standards;
- u) “stock” means fisheries resources in a given management area;
- v) Sustainable exploitation means exploitation of fisheries resources that will not have an undue negative impact on the fisheries resources or their ecosystems and will not prejudice future exploitation.

Article 2 Establishment of the Caribbean Common Fisheries Policy

This Agreement establishes the Caribbean Common Fisheries Policy.

New Article 3 Participation

1. This Agreement is open for signature by any Member State of CARICOM.

2. Subject to the consent of Participating Parties, any other Caribbean State or Territory, may accede to this Agreement after it has entered into force.

Article 3 Vision, Goal and Objectives

3.1 Vision

The vision of the Caribbean Common Fisheries Policy is effective cooperation and collaboration among Participating States in the conservation, management and sustainable utilisation of the fisheries resources and related ecosystems in the Caribbean region in order to secure the maximum benefits from those resources for the Caribbean peoples and for the Caribbean region as a whole.

3.2 Goal

The goal of the Caribbean Common Fisheries Policy is to establish, within the context of the Revised Treaty, appropriate measures for: the conservation, management, sustainable utilisation and development of fisheries resources and related ecosystems; the building of capacity amongst fishers and the optimisation of the social and economic returns from their fisheries; and the promotion of competitive trade and stable market conditions, so as to realise the Vision expressed in Article 3.1.

3.3 Objectives

The objectives of the Common Fisheries Policy are:

- a) to promote the sustainable development of fishing and aquaculture industries in the Caribbean Region as a means of, *inter alia*, increasing trade and export earnings, protecting food and nutrition security, assuring supply to Caribbean markets and improving income and employment opportunities;
- b) to develop harmonized measures and operating procedures for sustainable fisheries management, post-harvest practices, fisheries research and fisheries trade and the administration of the fishing industry;
- c) to improve the welfare and livelihoods of fishers and fishing communities;
- d) to prevent, deter and eliminate illegal, unreported and unregulated fishing, including by promoting the establishment and maintenance of effective monitoring, control, and surveillance systems;
- e) to build the institutional capabilities of Participating States to, *inter alia*, conduct research, collect and analyse data, improve networking and collaboration among Participating States, formulate and implement policies, and make decisions;

- f) to integrate environmental, coastal and marine management considerations and fisheries policy so as to safeguard fisheries and associated ecosystems from anthropogenic threats and to mitigate the impacts of climate change and natural disasters;
- g) to transform the fisheries sector towards being market-oriented, internationally-competitive and environmentally-sustainable, based on the highest international standards of quality assurance and sanitary and phytosanitary systems.

Article 4 Fundamental Principles

4.1. The following fundamental principles shall guide the implementation of the Common Fisheries Policy.

4.2 With respect to the conservation and management of fisheries:

- a) use of the best available scientific information in fisheries management decision-making, taking into consideration traditional knowledge concerning the resources and their habitats as well as environmental, economic and social factors;
- b) application of internationally-recognized standards and approaches, in particular the precautionary approach to fisheries management, the ecosystem approach to fisheries management and utilization of environmentally-sensitive fishing gears and methods;
- c) management of fishing capacity to ensure that the level of fishing effort is commensurate to the availability of resources; and
- d) prevention, deterrence and elimination of illegal, unreported and unregulated fishing.

4.2 With respect to fisheries and fishing communities:

- a) consideration of the particular rights, welfare and special needs of traditional, subsistence, artisanal and small scale fishers;
- b) inclusion of stakeholders in all aspects of fisheries management, planning and development;
- c) equitable allocation of rights, obligations, responsibilities and benefits to ensure fair treatment for all; and
- d) integration of fisheries into coastal area planning and management to ensure, inter alia, that the needs of coastal fishing communities are met.

4.3. With respect to post-harvest practices and trade:

- a) use of best practices in the harvesting, handling and processing of fish and fishery products; and
- b) implementation of internationally agreed standards in relation to fish trade, quality assurance and SPS.

4.4. With respect to data and research, commitment to the collection, pooling and sharing of data, information and research, and their dissemination in a timely manner.

4.5. With respect to governance and cooperation:

- a) promotion and implementation of the principles and methods of good governance;
- b) collaboration and cooperation with national, regional and international agencies on fisheries matters in the best interest of the Participating Parties;
- c) application of the principle of subsidiarity, in particular that CRFM will only perform those tasks which cannot be more effectively achieved by individual Participating Parties; and
- d) resolution of disputes in a peaceful and timely manner.

Article 5 Scope

- 5.1. The Common Fisheries Policy shall apply to: the development and management of fishing and aquaculture; the conservation and sustainable development of fisheries resources; production, processing, marketing and trading of fishery and aquaculture products; and to the welfare of fishers.
- 5.2. The Common Fisheries Policy shall apply within areas under the jurisdiction of Participating Parties, on board fishing vessels flying the flag of a Participating Party and, subject to the primary jurisdiction of the flag State when fishing takes place on the high seas or the coastal State when fishing takes place in the waters of a third State, nationals of Participating Parties.

Article 6 General Undertakings on Implementation

- 6.1 Participating Parties shall take all appropriate measures to secure the fulfilment of obligations arising under this Agreement and shall abstain from any measures which could jeopardise the attainment of its objectives.
- 6.2 Participating Parties undertake to adopt, as appropriate, detailed rules for the implementation of the Common Fisheries Policy, in particular by preparing Protocols in accordance with Article 19.
- 6.3 Participating Parties undertake to consider the need for a regional organization with responsibility for implementing this Agreement and, as appropriate, any Protocols adopted under it and, if necessary, to establish such an organization by means of a Protocol adopted under Article 19.
- 6.4 In carrying out the undertaking in Article 6.3, the Participating Parties shall review the role and functions set out for the CRFM by this Agreement and if necessary shall modify, supplement or remove those functions by means, as appropriate, of the Protocol adopted under Article 19 or by amendment to this Agreement under Article 21.

Article 7 Caribbean Regional Fisheries Mechanism

- 7.1. The CRFM, where requested by one or more Participating Parties, and in accordance with the principle of subsidiarity in Article 4.5(c), shall cooperate with and provide assistance to those Participating Parties in order to support them in achieving the objectives of this Agreement or in discharging their obligations under it.
- 7.2. Without prejudice or limitation to any of its powers under the CRFM Agreement, and in addition to the functions expressly set out for it in other parts of this Agreement, the functions which may be performed by CRFM pursuant to Article 7.1, shall include:
- a) providing technical assistance and advice in connection with the implementation of this Agreement, including where appropriate technical assistance and advice on national policy, management or law or on subregional, regional or global policy, management or law;
 - b) making recommendations on any of the matters referred to in paragraph (a);
 - c) coordinating or undertaking data collection, research and development activities;
 - d) providing coordination or cooperation facilities, services or mechanisms, as may be required to fulfil the objectives of this Agreement;
 - e) identifying and mobilising technical and financial resources, in collaboration with multilateral and bilateral donor agencies, to build the research, administrative and management capacities of Participating Parties;
 - f) supporting Participating Parties in their relations with non-Participating Parties, directly or in relevant international organisations, including by providing representation at the international level of the Participating Parties collectively;

g) any other functions which may be requested by one or more Participating Parties for purposes related to implementation of this Agreement.

7.2. In providing assistance and facilitation under Article 7.1 and in carrying out its functions under this Agreement, the CRFM shall:

- a) give effect, as far as possible, to the Vision, Goal and Objectives set out in Article 3; and
- b) be guided by the Principles set out in Article 4 and by applicable principles set out in the Community Agricultural Policy and the Fisheries Management and Development provisions of the Revised Treaty and by principles provided for in any other applicable international agreements concerning fisheries.

7.3. Participating Parties and the CRFM shall agree on rules of procedure, including as necessary any budgetary contributions or other financial regulations, for the carrying out functions by the CRFM under this Agreement.

Article 8 Access to Fisheries Resources

8.1. Without prejudice to the jurisdiction and authority of Participating Parties over fisheries resources in areas under their national jurisdiction, Participating Parties shall:

- (a) consider entering into arrangements, including access agreements, with other Participating Parties or Third States for the purpose of providing access to fishing opportunities in its waters; and
- (b) in doing so, subject to the limits of their capabilities, shall take account of the applicable provisions of the UN Convention on the Law of the Sea and other instruments, including the objective of optimum utilization and the provision of access to surplus fisheries resources.

8.2. Participating Parties shall seek

- (a) to develop opportunities and to promote the equal participation of Participating Parties in fisheries on the high seas, and
 - (b) to develop opportunities in areas within the national jurisdiction of Third States,
- and to this end shall collaborate directly or through the CRFM and other competent regional and international fisheries bodies.

Article 9 Economic Development

Participating States shall promote and adopt measures to improve the welfare and socio-economic conditions of fishers and fishing communities, including by:

- a) supporting the development of entrepreneurial and business management skills;
- b) improving access to credit, insurance and other forms of financial services, particularly in the case of small-scale operators;
- c) improving access to training and educational opportunities in areas that can contribute to improved productivity, efficiency and human development;
- d) promoting and facilitating joint ventures in fisheries and aquaculture among natural and legal persons from Participating States;
- e) supporting social assistance programmes for fishers and communities displaced due to fisheries management interventions;

- f) supporting compensation schemes for fishers whose livelihoods are adversely impaired by coastal management programmes;
- g) supporting the formation and strengthening of fisherfolk organisations to participate in fisheries development planning and management initiatives, and undertake economic activities and project that will generate income and uplift fishing communities;
- h) protecting any rights of subsistence fishermen to the preferential use of traditional fisheries resources in a sustainable manner, both inland and offshore.

Article 10 Statistics and Research

10.1. The Participating Parties, acting where appropriate in collaboration with other Participating Parties, Third States or relevant international organizations, shall:

- a) compile data on the status of fisheries resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- b) compile data bases on production, yields, species in culture and social and economic aspects of aquaculture;
- c) collect catch, effort, social, economic, demographic and other relevant statistics;
- d) facilitate research on marine and freshwater fisheries resources and ecosystems falling within the scope of this Agreement, including the effects of climate change and global warming, environmental, oceanographic, ecological, biological, social and economic factors and fishing technologies;
- e) facilitate research on aquaculture, including species suitability, adaptive husbandry systems, disease management and production processes to enhance production and yields;
- f) identify and study stocks or populations of unutilized and underutilized fisheries resources to determine their distribution, abundance and productivity, sustainable harvest levels, and appropriate harvesting methods; and
- g) identify conservation and management needs and analyze the effectiveness of management and conservation measures.

10.2. Furthermore, Participating Parties shall establish and maintain national and regional databases containing catch and effort data on harvested populations, including licensing, registration, social, economic and other relevant data on the fishers and other resource users who depend upon or use the harvested populations.

10.3. Participating Parties shall make available to the CRFM on an annual basis such data and information that it collects pursuant to Article 10.1.

10.4. Data and information shall be made available under Article 10.3 in accordance with agreed procedures and may be shared with third parties only in accordance with those procedures and applicable confidentiality and security requirements in or under this Agreement.

10.5. Participating Parties shall seek to ensure national and regional capacity for addressing data collection and research needs specified in this Article.

Article 11 Conservation and Management of Fisheries Resources

11.1. The Participating Parties shall formulate, adopt, implement and revise management and conservation measures and, where appropriate, fisheries management and plans on the basis of the best available information, including traditional knowledge.

11.2. The Participating Parties shall make decisions concerning sustainable exploitation and harmonized fisheries conservation, management and development strategies on the basis of:

- a) the Fundamental Principles set out in Article 4 of this Agreement; and

- b) fisheries management plans adopted under this Agreement and other fishery-specific conservation, management and recovery plans;
 - c) as appropriate, other provisions of this Agreement and other relevant international standards in fisheries management.
- 11.3. The Participating Parties shall adopt immediate preventative measures, on the basis of the best available information, where there is evidence of a risk that fishing activities could seriously threaten the conservation of fisheries resources or degradation of the essential fish habitat. Such measures shall remain in effect until long-term conservation and management measures are agreed.
- 11.4. The Participating Parties shall cooperate with competent regional fisheries management organisations and, as appropriate, other international organizations in the management of shared, straddling and highly migratory resources.
- 11.5. The Participating Parties shall, to the limit of their capabilities, establish appropriate monitoring, research and education programmes and management response plans and adaptation strategies to mitigate the impact of global warming, climate change and sea level rise and other environmental changes for the fisheries sector.
- 11.6. Participating Parties shall discourage the use of and work towards the removal of technical and financial measures that contribute to unsustainable fishing.

Article 12 Registration and Licensing of Vessels

- 12.1 Participating Parties shall take into account the status of available fisheries resources and existing fishing capacity when registering and licensing fishing vessels.
- 12.2. In order to maintain the balance between fishing capacity and fisheries resources, Participating Parties shall:
- a) establish and maintain a national register of fishing vessels flying its flag;
 - b) establish and maintain a licensing system for fishing vessels flying its flag and establish and maintain a record of licences or authorisations issued to fishing vessels.
- 12.3. The registers referred to in Article 12.2 shall include such minimum information on vessel characteristics and activity that is necessary for the management measures established in collaboration with the CRFM and should be based on harmonised procedures to facilitate the sharing of information.
- 12.4. The Participating Parties shall share with CRFM information collected through the national registers established under Article 12.2 together with such other information as the CRFM may require to maintain a regional register under Article 12.5.
- 12.5. In order to assist Participating Parties in maintaining the balance between fishing capacity and fisheries resources, the CRFM shall:
- (a) provide information on fishing capacity and resource status; and
 - (b) maintain a regional fishing fleet register containing the information that is received under Article 12.2 (b) and shall make it available to Participating Parties. The provisions of Article 14.2 and 14.3 shall apply to such register.

Article 13 Inspection, Enforcement and Sanctions

- 13.1. Each Participating Party, to the extent of its capabilities, shall develop, either directly or through cooperation with other Participating Parties or the CRFM, as appropriate, such inspection and enforcement measures as are necessary to ensure compliance with-

- a) the rules contained in and adopted pursuant to this Agreement;
- b) national regulations relating to fisheries; and
- c) rules of international law, binding on the Participating Party concerned.

13.2. The inspection and enforcement measures referred to in Article 13.1. shall apply to rules applicable in the territory of the Participating Party, in waters under its jurisdiction, on fishing vessels flying its flag and, where appropriate, and subject to the primary jurisdiction of the flag State when fishing takes place on the high seas or the coastal State when fishing takes place in the waters of a third State, to its nationals, wherever they may be.

13.3. In implementing Article 13.1, Participating Parties shall *inter alia*:

- a) monitor, control and undertake surveillance of their maritime space and co-operate in monitoring, controlling and undertaking surveillance of areas contiguous to their maritime space in order to eliminate, deter and prevent illegal, unreported and unregulated fishing as appropriate;
- b) establish an appropriate vessel monitoring system to monitor the position and activity of vessels flying their flag;
- c) adopt port and "at sea" inspection schemes;
- d) take inspection and enforcement measures necessary to ensure compliance with the rules of the Common Fisheries Policy;
- e) ensure that appropriate and effective measures are taken against violators of the applicable rules and in particular that such measures are capable, in accordance with the relevant provisions of national law, of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements.

Article 14 Confidentiality and Intellectual Property Rights

- 14.1. Participating Parties shall retain ownership of any data, information or product made available to other Participating Parties or to the CRFM as a result of the implementation of this Agreement.
- 14.2. All intellectual property rights in data, documents and products developed by the CRFM in the course of implementing this Agreement shall, subject to and in accordance with any relevant contractual obligation, belong to the CRFM.
- 14.3. All intellectual property rights in data, documents and products developed by the CRFM from material made available by one or more Participating Parties shall jointly belong to the CRFM and the Participating Parties involved.
- 14.4. The CRFM shall make available to public institutions and others, for non-commercial and educational purposes, such of its informational products as it considers appropriate.
- 14.5. The CRFM and Participating Parties shall maintain the confidentiality of any proprietary information or any other information provided on a confidential basis by any other Participating Party and shall refrain from disclosing such information to third parties or using it for purposes other than those for which it was provided.
- 14.6. The identity of individuals from whom research data or information is obtained shall be kept strictly confidential. No information revealing the identity of any individual shall be included in any report or other communication, unless the individual concerned has given prior consent in writing to such inclusion.

Article 15 Dissemination of Information

- 15.1. Participating Parties shall disseminate to other Participating States and to the CRFM:
- a) statistical data on fisheries;
 - b) information on research findings;
 - c) information on proposed management programmes;
 - d) information resulting from implementation of management programmes; and
 - e) information on the activities taken for the implementation of this Agreement.
- 15.2. Participating Parties and the CRFM shall disseminate relevant information to stakeholders to enable them to be familiar with regional and international developments in fisheries and thereby facilitate informed decision-making and widespread acceptance of and participation in the Common Fisheries Policy.
- 15.3. Participating Parties shall promptly notify the CRFM and other Participating Parties of any localized threats, whether actual or potential, to their fisheries and marine ecosystems which may cause harm to the fishery resources, environment or economic interest of other Participating Parties.
- 15.4. Nothing in this Agreement shall be deemed to require a Participating Party, in fulfilment of its obligations under this Agreement, to supply information, the disclosure of which is contrary to its national security interests.

Article 16 Public Awareness

The Participating Parties shall promote public awareness of good conservation, exploitation and management policies and practices in relation to this Policy by, *inter alia*:

- (a) informing stakeholders of the status of this Policy;
- (b) strengthening regional and subregional institutions working with citizens, especially fishers and fishing communities, with a view to increasing knowledge and understanding of methods of conserving, sustaining and preserving living aquatic resources and of avoiding overexploitation of them;
- (c) collaborating with relevant educational institutions to introduce sustainable use of living aquatic resources into their programmes; and
- (d) promoting recognition of the Caribbean Sea as a special area in the context of sustainable development.

Article 17 Marketing and Trade of Fisheries Resources

Participating Parties, consistently with their obligations under international agreements on marketing and trade, and in particular those under the Revised Treaty and the World Trade Organisation agreements, where applicable, shall:

- a) enact, keep updated and enforce appropriate harmonised food quality assurance legislation and policy for fish and fishery products from the point of harvest or production to the point of sale;
- b) encourage stable market conditions and promote policies on the production and marketing of fishery products which take account of the need to conserve and use the resources in a sustainable manner;
- c) develop markets in fishery products which will include the adoption of measures designed to ensure that supply is better matched to demand in terms of both quality and quantity, and increase the return on products;
- d) encourage the development and application of common marketing standards for products from fish and fisheries resources thus keeping products of unsatisfactory quality off the market;
- e) implement programmes to improve product quality;

- f) monitor developments in internal and external markets and disseminate information to Participating States and, as appropriate, to Third States;
- g) adopt measures and programmes to-
 - i. strengthen human resource and institutional capacities and capabilities in fish processing, quality management and distribution and trade in fisheries products; and
 - ii. acquire, transfer and develop fish processing technologies, improve technical and economic efficiencies in the processing of fisheries products;
- h) adopt measures to facilitate trade between the Participating States while maintaining and increasing its capacity to protect fisheries and public health;
- i) develop capacity to identify, prevent and minimize unintended disruptions or barriers to trade between the Participating States due to national measures adopted to protect fisheries and public health; and
- j) establish harmonized intra-regional SPS measures including the use of recognition and equivalence measures.

Article 18 Links with International Organizations

In order to promote the objectives of this Agreement, the CRFM shall facilitate the development of strategic alliances and partnerships with relevant agencies created by multilateral environmental agreements as well as regional fisheries management organisations and arrangements and other relevant national, regional and international agencies and organizations, whether governmental or non-governmental.

Article 19 Protocols

19.1. Participating Parties undertake to prepare Protocols relating, *inter alia*, to:

- a) research on shared stocks;
- b) harmonization of fisheries legislation;
- c) cooperation in monitoring, control and surveillance to combat illegal, unregulated and unreported fishing;
- d) establishment of a common fisheries zone;
- e) aquaculture;
- f) establishment of a regional fisheries management organisation or arrangement;
- g) sanitary and phytosanitary measures;
- h) data and information sharing; and
- i) settlement of disputes.

19.2. Pending the preparation of the Protocols set out in Article 19.1, Participating Parties may cooperate on arrangements of a provisional nature in the above fields.

19.3. Subject to Article 19.4 to 19.6, Participating Parties shall agree, with respect to each Protocol, on the procedure for the preparation and adoption of each Protocol.

19.4. The adoption of Protocols under Article 19.3 shall be by consensus.

19.5. *[Procedure for entry into force of Protocols for existing Parties]*

19.6. *[Procedure for entry into force for future (acceding) Parties]*

- 19.7. Protocols which have been concluded under this Agreement shall form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement includes a reference to the Protocols.

Article 20 Review and Development

- 20.1. Participating Parties shall, in light of changing circumstances, review this Agreement, including any Protocols adopted under it, as may be required to achieve the vision, goal and objectives of this Agreement.
- 20.2. The review and development referred to in Article 20.1 may include *inter alia*:
- a) consultation with stakeholders to assess the impacts of the Common Fisheries Policy and, if required, to develop proposals for its implementation or amendment;
 - b) provision by the CRFM of technical support for the consultations and the analysis of the consultation results in order to inform decision-making;
 - c) such other formal or informal procedures as Participating Parties consider necessary to facilitate the success of the Policy.

Article 21 Amendments

- 21.1. A Participating Party may, by written communication addressed to the Secretary-General, propose an amendment to this Agreement.
- 21.2. [Process for considering and concluding amendments needs to be reviewed].

Article 22 Dispute Settlement

The procedures for the settlement of disputes set out in Articles 188 to 192 of the Revised Treaty shall apply *mutatis mutandis* to the settlement of disputes concerning the interpretation or application of this Agreement, whether or not the Parties to the dispute are Parties to the Revised Treaty.

Article 23 Depositary

The Secretary-General shall be the depositary of this Agreement and any amendments or revisions thereto. The depositary shall register this Agreement with the Secretary-General of the United Nations in accordance with article 102 of the Charter of the United Nations.

Article 24 Signature

- 24.1. This Agreement is open for signature by any State that is a Party to the Revised Treaty of Chaguaramas.
- 24.2. This Agreement shall be open for signature on the ... day of 2011 and shall remain open for signature until the Agreement enters into force.

Instruments of Signature shall be deposited with the Secretary-General who shall transmit certified copies to Participating Parties.

Article 25 Accession

Any State referred to in Article 24.1 and, subject to the consent of a majority of Participating States, any other Caribbean State or Territory, may accede to this Agreement after it has entered into force.

Instruments of Accession shall be deposited with the Secretary-General who shall transmit certified copies to Participating States.

Article 26 Entry into Force

This Agreement shall enter into force signature by seven States under Article 24.1.

Article 27 Withdrawal

- 27.1. A Participating Party may withdraw from this Agreement by giving written notice to the Secretary-General. The withdrawal shall take effect one year after the date of notification unless the notification specifies a later date.
- 27.2. A notification given under Article 27.1 may be cancelled at any time before it comes effective by giving further written notice to the Secretary-General.
- 27.3. The Secretary-General shall promptly notify the other Participating States of any notification received under Article 27.1 or 27.2.
- 27.4. Withdrawal from this Agreement shall not:
 - a) affect the financial obligations incurred by the withdrawing Participating Party prior to its withdrawal becoming effective; or
 - b) remove or limit any obligations in respect of confidentiality of data or intellectual property rights to which the withdrawing Participating Party was subject prior to its withdrawal becoming effective.

IN WITNESS WHEREOF the Participating States, being duly authorised thereto, have appended their signature to this Agreement.

DONE AT _____, this _____ day of _____ Two Thousand and Eleven.