



CARIBBEAN REGIONAL FISHERIES MECHANISM SECRETARIAT

REPORT OF THE SECOND AD HOC LEGAL WORKING GROUP ON THE PREPARATION OF A COMMON FISHERIES POLICY AND REGIME

April 2006

CHAIRPERSON:

**Ms. Yvonne Joy Crawford
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PREPARATION OF THIS DOCUMENT

This report was prepared by Milton Haughton, Deputy Executive Director, Caribbean Regional Fisheries Mechanism Secretariat, Belize City, Belize, based on the presentations and discussions during the Second Meeting of the *Ad Hoc* Legal Working Group established by the CRFM to assist with the development of the CARICOM Common Fisheries Policy and Regime.

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CARICOM CAPACITY DEVELOPMENT PROGRAMME (CCDP): BUILDING CAPACITY IN FISHERIES LAW AND POLICY IN THE REGION

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

1. The Second Meeting of the Legal working group was held at the New Haddon Hotel, Kingstown, St. Vincent and the Grenadines, from April 7 to 8, 2006. The meeting was attended by legal officers from Antigua and Barbuda, Barbados, Jamaica, Guyana, and the Turks and Caicos Islands, and by staff from the CRFM Secretariat. The members from the British Virgin Islands, and Trinidad and Tobago were unable to attend. A list of the participants is provided at **Appendix 1**.
2. The Chairman of the Working Group, Ms. Yvonne Joy Crawford welcomed participants and introduced the agenda for the 2nd Working Group Meeting, which is attached at **Appendix 2**. The main purpose of the meeting was to continue the process of reviewing and elaborating the text of the Agreement Establishing the CRFM, including the legal implications of the CRFM becoming the implementing mechanism for the CFP&R, and the legal implications of the CRFM functioning as a RFMO (For further detail on the objectives see **Appendix 4: Terms of Reference of the Legal Working Group**).
3. The Deputy Executive Director provided an oral summary of the list of resource documents that were sent to Members of the Working Group arising from the 1st Meeting in Guyana, February 20-21, 2006. These included a compendium of EC Fisheries Law; EC and UK fisheries case summaries; and ECJ and ICJ judgments in fisheries cases, among others.

4. Following the 1st meeting of the Legal Working Group each member was assigned responsibility for reviewing specific sections and subsections of the CFP Framework Document and revising the text or providing new text as appropriate in keeping with the will of the member states as stated, whether expressly or impliedly, in the relevant background documents including *inter alia*, the Revised Treaty, UNCLOS and other relevant international and regional conventions and agreements to which they subscribe, The Mandate of the Conference of Heads of Government, the CRFM Agreement, reports of various CRFM Forum Meetings and associated working groups re the common fisheries policy, and reports of the COTED. See **Appendix 3** for details regarding the assignment of responsibility to members of the Working Group.
5. Prior to the 2nd Meeting of the Ad Hoc Legal Working Group, the revised and new text and commentaries prepared by each Working Group member were compiled and circulated by email to all members of the Working Group to facilitate informed discussion during the meeting.
6. The new/revised sections and subsections were projected onto a screen that could be viewed by all the group members together to facilitate analysis, discussion and editing as appropriate.
7. The Working Group then worked through the **Revised Framework - Common Fisheries Policy** by receiving and reviewing the revised or new text and commentaries prepared by the members of the Working Group beginning with the preamble, through to the end of the document.
8. The principles and standards proposed by the Working Group represent, to a great degree, arrangements needed to give effect, in an orderly manner taking into account the specificities of fisheries, to commitments already made by the countries through such instruments as the Revised Treaty, UNCLOS and other related legal instruments. Whereas changes were made to all sections, significant Improvements were made as follows:
 - a) New text containing definition of several technical terms used in the draft agreement was added.

- b) The vision, goals and objectives were refined, with the objectives elaborated to fully incorporate the objectives laid down in the Treaty, and avoid unnecessary duplication.
- c) The fundamental principles were refined and new ones added for completion and consistency with the intention of the countries as laid down relevant background policy documents.
- d) The section and subsections dealing with scope of the policy were elaborated. Substantive provisions have been added on the issue of access to fisheries resources, management of resources, research and data collection and marketing and trade. Whereas the provisions regarding resource management, data collection and research, and marketing and trade are familiar issues that have been discussed and generally acceptance, the issue of access to resource within the context of the policy is new ground and requires careful consideration.
- e) The basic principles regarding access to fisheries resources are: i) Within their territorial waters, Member States shall have absolute authority to restrict fishing to fishing vessels that traditionally fish in those waters; and ii) Fishing vessels of Member States shall have conditional access to surplus resources, or un-exploited resources within the common fisheries zone subject to such conservation measures as may be adopted from time to time by the Implementing Agency.
- f) The common fisheries zone is another area where the group came up with substantive text for consideration by the countries. On the basis of existing legal and policy commitments and the working documents on the CFP&R, the common fisheries zone should for practical purposes be the EEZ of Member States.
- g) Another major area is the role and powers of the implementing agency. The group recommends the option of the CRFM, appropriately strengthened, to be the Implementing Agency. If the objectives (section

2.1.1) are accepted, then the Ministerial Council should have the powers articulated under subsection 2.1.5.1 of the Draft Framework Agreement, to be able to realize these objectives.

- h) With respect to membership, the recommendation is to keep the arrangements contained in the CRFM 2002 Agreement, i.e. membership should be open to all CARICOM Members and Associate Members, and any other State or Territory of the Caribbean Region that is, in the opinion of the Ministerial Council, able and willing to exercise the rights and assume the obligations of membership. This matter requires careful consideration because of the differences arising from the Treaty, the CRFM Agreement and the special situation of fisheries.

- i) The final area is that of dispute settlement. The main recommendation is that question regarding interpretation or application of the Framework Agreement should be referred to an Adjudicator. If there is still disagreement then the dispute may be referred to an arbitral tribunal whose decision shall be final.

Constraints

- 9. The major constraint experienced was the short time available during the 2 days to carry out the assignment. For this reason, the group was unable to complete its agenda satisfactorily, including review and analysis of the 2002 CRFM Agreement.

- 10. The absence of some members of the team meant that those areas that were assigned to them could not have been adequately dealt with during the meeting, furthermore not all the Group Members present were able to fully analyse the issues assigned to them and prepare text and commentaries for discussion during the meeting. For these reasons some areas of the Framework Document are still deficient and need to be refined or further elaborated.

- 11. The legal issues involved are significant and complex. The Group should therefore continue to meet after the initial two meetings to continue assisting with

the process of developing the legal, policy and institutional arrangements needed to finalize and implement the CFP&R.

Conclusion

12. The Working Group made significant progress re the development of the Common Fisheries Policy, in particular the elaboration of the text of the Revised Draft Framework Agreement on the Common Fisheries Policy and Regime (“Framework Agreement”) (see **Appendix 5**)

13. However, it should be recognised that the Framework Agreement is a work in progress and that, in order to continue the orderly and efficient development of the policy and regime, the technical and legal experts need further policy guidance on certain sensitive, core elements, including, *inter alia*, the nature and scope of the common fishing zone (Subsection 2.1.4), the principles governing access to the fishery resources (Subsection 2.1.3.1), and the powers of the implementing agency (Subsection 2.1.5).

14. There are still several outstanding substantive and procedural matters to be addressed by the Working Group, including intellectual property, social welfare issues in respect of fishers, movement of live fish and other living aquatic resources, entry into force, accession, withdrawal, amendments, among others.

APPENDIX 1:LIST OF PARTICIPANTS

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APPENDIX 2: AGENDA

CARIBBEAN REGIONAL FISHERIES MECHANISM

SECOND MEETING OF THE AD HOC LEGAL WORKING GROUP ON THE COMMON FISHERIES POLICY AND REGIME

Kingstown, St. Vincent and the Grenadines

7 – 8 April 2006

March 16, 2006

DRAFT AGENDA

DAY 1

ITEM 1: Introduction and Opening Remarks 9:00am. – 9:10am

ITEM 2: Update on the Common Fisheries Policy and Regime 9:10am. – 9:30am

ITEM 3: Review and Discussion of the submission from each member of the Working Group on assignments undertaken 9.30 am - 10.30 am

C O F F E E B R E A K 10:30am - 10:45am

ITEM 3: Review and Discussion of the submission from each member of the Working Group on assignments undertaken (Continued) 10.45 am – 12.30 pm

L U N C H 12:30pm – 1:30pm.

ITEM 3: Review and Discussion of the submission from each member of the Working Group on assignments undertaken 1.30 pm - 3.30 pm

C O F F E E B R E A K 3:30pm. – 3:45pm

ITEM 3: Review and Discussion of the submission from each member of the Working Group on assignments undertaken 3.45 pm – 5..30 pm

DAY 2

ITEM 4: Review and Discussion on the Revised Framework Document and preparation of the presentation for the FORUM Meeting 9:00am – 10:30a.m.

	C O F F E E B R E A K	10:30am–10:45am.
ITEM 4:	Review and Discussion on the Revised Framework Document and preparation of the presentation for the FORUM Meeting On the CFP&R	10:45am–12:30pm.
	L U N C H	12:30pm -1:30p.m.
ITEM 5:	Review and Discussion of the 2002 CRFM Agreement	1.30 pm – 3.30 pm
	C O F F E E B R E A K	3:00pm – 3:15p.m.
ITEM 6:	Plan for division of work among working group Members, for further analysis of issues and Preparation of report	1:30p.m. -3:00p.m.
ITEM 7:	Any other business	3:15pm – 5:00p.m.

END OF SESSION

APPENDIX 3: PRELIMINARY ASSIGNMENT OF RESPONSIBILITY

	NAME	TASK 1. Review and prepare recommendations to improve CFP framework document
1	Carla Brookes-Harris carlabharris@yahoo.com	1. Section 1.Preamble; 2. Section 2.1.8 Dispute Settlement 3. New Subsection (2.1.3.5) on Intellectual property 4. Section 2.1.7 Representational Right of Implementation Agency
2	Donna K. Brathwaite dbrathwaite@oag.gov.bb	5. Section 2.1.1 Vision, goal... – 6. Section 2.1.2 Fundamental principles; 7. Section 2.1.4 The common zone; 8. Sub-sections 2.1.3.1 Access to fisheries resources
3	Charmaine Rosan missrosan2000@yahoo.co.uk	9. A new subsection on Human Resource development and public education/awareness; 10. Sub-section 2.1.3.2 Management of the use of fisheries 11. Section 2.1.6 Membership/Participation..
4	Yvonne Joy Crawford: yjcrawford@moa.gov.jm	12. Sub-section 2.1.3.1 Access to fisheries resource 13. Sub-section 2.1.3.2 Management of the use of fisheries 14. Sub-sections 2.1.3.3 Data Collection 15. Section 2.1.4 The Common Fisheries Zone
5	Andrew Rahaman andrewrahaman@hotmail.com	16. Sub-section 2.1.3.3 Data Collection 17. Sub-section 2.1.3.4 Marketing 18. Section 2.1.6 Membership/Participation.. 19. New Subsection (2.1.3.5) on Intellectual property
6	Elizabeth Hinds elizabethkanhinds@yahoo.com	20. Section 2.1.7 Representational Right of Implementation Agency 21. Section 2.1.5.1 Species for consideration 22. Section 2.1.5.2. Powers of the Implementing Agency
7	Denzil L. Roberts/Cecil Seepersaud d_robertsapcu@yahoo.com cecilseepersaud@yahoo.com	23. Section 2.1.8 Dispute settlement; 24. Section 2.1.9 Entry into force; 25. Section 2.1.10 Accession; 26. Section 2.1.11 Withdrawal; and 27. Section 2.1.12 Amendments (new subsection)
8	Milton Haughton miltonhaughton@hotmail.com	28. Section 2.1.3 Scope of Policies 29. Section 2.1.5 Implementation

APPENDIX 4: TERMS OF REFERENCE OF THE AN HOC LEGAL WORKING GROUP

1.0 Introduction

The Conference of CARICOM Heads of Government at their Fourteenth Inter-Sessional Meeting held in Trinidad and Tobago from February 14th – 15th, 2003, considered and endorsed the proposals from the Government of Barbados on '*the imperative of elaborating a Common Fisheries Regime*' and mandated the CARICOM Secretariat (CARISEC) to undertake the necessary consultations and propose a framework for consideration at the Twenty-Fourth Meeting in July 2003.

The Caribbean Fisheries Forum at its first meeting in Belize on March 27th, 2003 acknowledged that the mandate of the Conference of Heads of Government demonstrated the highest level of commitment by CARICOM Governments to the management and conservation of the region's fisheries resources. As such, it was determined that the Caribbean Fisheries Forum / CRFM, being the regional fisheries body established by CARICOM, would establish a Working Group, under Rule 11, to implement the mandate from the CARICOM Heads of Government and report to them through the Ministerial Council.

The CARICOM Heads of Government at their Fifteenth Inter-Sessional Meeting in St. Kitts and Nevis in March 2004 decided that the elaboration of the Common Fisheries Policy and Regime would be independent and separate from and without prejudice to the settlement of maritime boundary disputes between and among Member States and Third Parties. Additionally, they reaffirmed the continuation of the mandate to CARISEC to propose a framework for the exploitation and conservation of the regional fisheries resources, and considered and approved the Working Group's Plan of Action for the establishment of the CFP&R, which had been developed at the first meeting of the Group in Trinidad and Tobago from June 5th – 6th, 2003.

In keeping with the reaffirmation given to CARISEC and the approval of the Working Group's Plan of Action for the Establishment of the CFP&R, the CRFM Secretariat, in collaboration with the CARICOM Secretariat, convened the Second and Third Meetings of the Working Group, and a Regional Multidisciplinary Workshop on the Common Fisheries Policy and Regime, in Guyana, during the periods June 9th – 10th, 2004, in St. Vincent and the Grenadines, November 29th – 30th, 2004, and in St. Kitts and Nevis, April 18th – 19th, 2005, respectively.

At the Regional Multidisciplinary workshop, held April 18th – 19th, 2005 in St. Kitts and Nevis the Member States highlighted the need for consideration of the legal issues in any discussion on the CFP&R. They also indicated that the Agreement Establishing the CRFM should be reviewed and the legal implications for the CRFM taking on the role of the implementing mechanism for the CFP&R and / or carrying out the role and functions of a Regional Fisheries Management Organization (RFMO) be identified and elaborated. These recommendations arose out of further consideration of CRFM Secretariat discussion papers:

1. Implementing Mechanism for the Common Fisheries Policy and Regime; and
2. (a) An Overview of the regional fishery body, with emphasis on the type serving as a regional fishery management organization.

(b) A preliminary examination of the issues pertaining to establishment of a regional fishery management organization in the Caribbean region.

It was therefore agreed that an ad-hoc Legal Working Group would be formed to address the recommendations, with the members of the Group being comprised of representatives from Antigua and Barbuda, Barbados, British Virgin Islands, Guyana, Jamaica, Trinidad and Tobago, and Turks and Caicos Islands. It was also agreed that the Working Group would report through the CRFM Secretariat, to the General Counsel, CARICOM Secretariat. The CRFM and OECS Secretariat would provide support (resource persons).

2.0 OBJECTIVE

The objectives of the study are as follows:

- to review the Agreement Establishing the CRFM with a view to determining and elaborating on the legal implications of the CRFM becoming the implementing mechanism for the CFP&R, and / or carrying out the role and functions of an RFMO, and make recommendations to address these matters;
- to provide legal advice in relation to sections 2.1.6 Membership / Participation in the Implementing Agency, 2.1.7 Representational Rights of Implementing Agency, 2.1.8 Dispute Settlement, 2.1.9 Entry into Force, 2.1.10 Accession and 2.1.11 Withdrawal, of the refined Draft Framework for a Common Fisheries Policy and Regime, coming out of the Regional Multidisciplinary Workshop on the Common Fisheries Policy and Regime; and
- to review the Agreement Establishing the CRFM with a view recommending, if necessary, additional sanctions for failure to make contributions.

3.0 APPROACH

Under the general direction of the Executive Director, the representatives / Legal Experts identified from the Member States mentioned above will undertake the study and prepare the necessary reports. Literature research, electronic and workshop discussions and report preparations will take place during the period, November 8th, 2005 – February 15th, 2006.

The Team of Legal Experts will work in close collaboration with the Deputy Executive Director of the CRFM Secretariat, Directors and staff of the Fisheries Departments to conduct the assignment. Although the Legal Experts will work in close collaboration with the above-mentioned personnel, it is understood that they are responsible for producing the outputs of this assignment.

During the Study, the Team of Legal Experts will undertake the following tasks:

Literature Review: Review available documentation, including the Revised Treaty of Chaguaramas, 1982 United Nations Convention on the Law of the Sea (UNCLOS), 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1995 Code of Conduct for Responsible Fisheries, and resulting IPOAs, 1995 United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks, 1991 OECS Common Fisheries Surveillance Zones Agreement, 1993 Draft OECS Agreement on Common Fisheries Zones for Vessels of Member States of the Southern Zone of the OECS, Agreement Establishing the CRFM, Strategic and Medium Term Plans of the CRFM, background and discussion papers prepared by the CRFM and CARISEC on the CFP&R, the Issues Document from the 2003 CFP&R Workshop, refined Draft Framework for a Common Fisheries Policy and Regime, reports from the National Consultations

on the CFP&R and any other relevant documents.

Workshop: Following on the documentation review, the Team of Legal Experts supported by resource persons from the CRFM and OECS Secretariats will meet in a workshop setting for a period of 1 - 2 days to elaborate on the legal implications for the CRFM becoming the implementing mechanism of the CFP&R and / or carrying out the role and functions of an RFMO and make recommendations for addressing these matters as well as providing legal advice in relation to sections 2.1.6 Membership / Participation in the Implementing Agency, 2.1.7 Representational Rights of Implementing Agency, 2.1.8 Dispute Settlement, 2.1.9 Entry into Force, 2.1.10 Accession and 2.1.11 Withdrawal, of the refined Draft Framework for a Common Fisheries Policy and Regime, coming out of the Regional Multidisciplinary Workshop on the Common Fisheries Policy and Regime.

4.0 EXPECTED OUTPUTS

The Expected Outputs of the Study will be as follows:

- (a) Identification and elaboration of the legal implications for the CRFM becoming the implementing mechanism for the CFP&R and / or carrying out the role and functions of an RFMO, with recommendations for addressing these matters.
- (b) Provision of legal advice in relation to sections 2.1.6 Membership / Participation in the Implementing Agency, 2.1.7 Representational Rights of Implementing Agency, 2.1.8 Dispute Settlement, 2.1.9 Entry into Force, 2.1.10 Accession and 2.1.11 Withdrawal, of the refined Draft Framework for a Common Fisheries Policy and Regime, coming out of the Regional Multidisciplinary Workshop on the Common Fisheries Policy and Regime.

5.0 TIME ALLOTMENT

The study will be conducted between November 8th, 2005 – February 15th, 2006.

APPENDIX 5: REVISED FRAMEWORK - COMMON FISHERIES POLICY

A Common Fisheries Regime and Policy - Revised Framework

1.0 Background

The objective of establishing a Common Fisheries Policy and/or a Common Fisheries Regime in the Caribbean has had a long history, both at the CARICOM and the OECS levels. Initiatives at the CARICOM level included the draft Inter-Governmental Agreement for Coordinating and Harmonising the Management of Fisheries Resources in 1989.

At the OECS level the initiatives included a Draft OECS Agreement on Common Fisheries Surveillance Zones for Vessels of Member States of the OECS in 198...

The current effort to establish a Common Fisheries Policy and Regime at the CARICOM level was initiated at the Fourteenth Inter-Sessional Meeting of the Conference of Heads of Government in Trinidad and Tobago, 14-15 February, 2003. The Heads of Government

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“Noted and endorsed the proposals submitted by the Government of Barbados on the imperative of elaborating a Common Fisheries Regime;

Urged that the research also take cognisance of the need to develop international standards for the export of fishery products”.

The Conference returned to the issue at its Fifteenth Inter-Sessional Meeting in St. Kitts and Nevis, March 25-26, 2004 but in a context where certain intra-CARICOM disputes relating to maritime boundaries had been referred for third party resolution. This Meeting of the Conference, specifically -

“Recognised that the disputes relating to maritime boundaries between Barbados and Trinidad and Tobago, and between Guyana and Suriname have been referred to the United Nations under the 1982 UN Convention on the Law of the Sea (UNCLOS) for resolution”.

*“**Decided** that the elaboration of the Common Fisheries Regime would be independent and separate from and without prejudice to the settlement of maritime boundary disputes between and among Member States and Third Parties;*

***Reaffirmed** the continuation of the mandate to the CARICOM Secretariat to propose a framework for the exploitation and conservation of regional fisheries resources at the Fourteenth Inter-Sessional Meeting of the Conference;*

Also requested the Secretariat to provide a Report on the development of the Common Fisheries Regime to its Twenty-Fifth Meeting in July 2004”.

The Caribbean Fisheries Forum, established in the framework of the Caribbean Regional Fisheries Mechanism inaugurated on 26 March 2003 considered the issue at its First Meeting on 27 March, 2003 and, *inter alia* -

“Also noted that over the years fisheries officers and fishing authorities of the Region have posited a common approach to the management of the fisheries of the Region;

Agreed that the CRFM, which was formally inaugurated on 26 March 2003, is now in a position to provide regional leadership with regard to this mandate of the Heads of Government;

Proposed that the articulation of the vision, framework and guidelines for a Common Fisheries Regime, by the CRFM, should encompass, inter alia –

- (i) The initiatives that have commenced in the OECS Region;***
- (ii) Inputs from all stakeholders at both the national and regional levels;***
- (iii) The identification of the challenges that might preclude the implementation of a Common Fisheries Regime; and***
- (iv) Recommendations for the overcoming of such challenges.***

Also agreed that the Forum will establish a Working Group, under Rule 11 of the Rules of Procedure of the CRFM to develop a draft position on this matter, for reporting to the Heads of Government through the Ministerial Council and Community Council by 30 June 2003”.

(The text of the decision of the Forum is at **Appendix I to this Attachment**).

As part of the preparatory process prior to reporting to the Conference of Heads of Government through the Ministerial Council, a Regional Multi-Disciplinary Workshop on the Common Fisheries Policy and Regime (CFP&R) was convened on St Kitts and Nevis on April 18th and 19th, 2005. This Workshop, *inter alia*, received reports on the national consultative process and refined the Draft Framework for the Regional Fisheries Policy and Regime that emanated from a

June 2004 Regional Workshop.

While the material presented herein represents an update from the June 2004 Regional Workshop, it would be observed that there is still lack of consensus on some of the issues. This therefore should be considered still to be a work in progress requiring policy guidance in some areas and legal input in others.

2.0 **Preamble**

Mindful of the relevant provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS); the 1990 Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean; 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 (BPoA); the 1995 Food and Agriculture Organisation of the United Nations (FAO) Code of Conduct for Responsible Fisheries; and the 1995 United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks;

Deeply conscious of the need to promote sustainable use of living marine and other aquatic resources through the efficient development, management and conservation of such resources;

Conscious also that some species of marine and other living aquatic resources within the jurisdiction of Member States are overexploited whereas others are underexploited or unexploited, and are therefore not making optimum contribution to the social and economic development of the Community;

Aware that certain living marine resources, which are of interest to the peoples of the Caribbean region, are highly migratory, straddle national boundaries and are harvested by third states;

Noting that the provisions of Chapter 3 of The Revised Treaty of Chaguaramas regarding the right of establishment, the right to provide services, the right to move capital in the Community is applicable to nationals of the Community connected to fisheries and aquaculture;

Noting also that Article 60 of the Revised Treaty of Chaguaramas provides that the 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.

Further Noting that article 4(a) of the CRFM Agreement focuses on 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 use and conservation of the living aquatic resources within the jurisdiction of Member States;

Recalled the UN Resolution being Convinced that the concept of the Caribbean Sea as a special area for Sustainable development can, *inter alia*, be given effect through a Common Fisheries Policy and Regime.

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

- (a) 'common fisheries zone' means the area as defined in Section 2.1.4
- (b) 'Community waters' means the waters under the sovereignty or jurisdiction of the Member States;
- (c) 'living aquatic resources' means available and accessible living marine, brackish water and freshwater aquatic species;
- (d) 'Community fishing vessel' means a fishing vessel flying the flag of a Member State or registered in the Community;
- (e) 'sustainable exploitation' means the exploitation of a stock in such a way that the future exploitation of the stock will not be prejudiced and that it does not have a negative impact on the marine ecosystems;
- (f) 'stock' means a living aquatic resource that occurs in a given management area;
- (g) 'precautionary approach to fisheries management' means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;

- (h) 'safe biological limits' means indicators of the state of a stock or of its exploitation inside which there is a low risk of transgressing certain limit reference points;
- (i) 'catch limit' means a quantitative limit on landings of a stock or group of stocks over a given period unless otherwise provided for in Community law;
- (j) 'fishing opportunity' means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort;
- (k) 'Community fishing opportunity' means the fishing opportunities available to the Community in Community waters, plus the total Community fishing opportunities outside Community waters, less the Community fishing opportunities allocated to third countries;
- (l) "access agreement" means an agreement between one Member State or several Member States and a Third State or Third States to exploit the fishery resources of a Member State or Member States;
- (m) "aquaculture" means all activities aimed at producing in restricted areas, processing and marketing aquatic plants and animals from fresh, brackish or salt waters;
- (n) "fish" means any aquatic plant or animal, and includes eggs, larvae and all juvenile stages;
- (o) "fishing" means all activities directly related to the exploitation of living aquatic resources and includes transshipment;
- (p) "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 the time spent on fishing or searching for fish;
- (q) "fishing vessel" means any vessel, boat, ship or other craft, which is used for, equipped to be used for or of a type that is normally used for fishing or related activities, and all its equipment;
- (r) "management plans" means specific arrangements aimed at controlling and regulating the exploitation of living aquatic resources.
- (s) "Fisheries resources" includes all the fishable resources, natural and cultured in the inland and internal waters, territorial seas, archipelagic waters and the exclusive zones of the Member States. (Article 60.5 of the Revised Treaty of Chaguaramas)
- (t) "Secretary General" means the Secretary of the Community

2.1 Common Fisheries Policy and Regime

2.1.1 Vision, Goals and Objectives

Vision: Member States of the Community and Third States cooperating and collaborating in the utilization, conservation and management of the living aquatic resources and related ecosystems of the Caribbean Region

Goal Establish a common regime and policy, within the context of the Revised Treaty of Chaguaramas, for the sustainable utilization, development, management of living aquatic resources and related ecosystems, in addition to fish quality assurance and trade of participating States, to maximize the present and future social and economic benefits to the people of the Community.

Objectives

The objective of the Common Fisheries Policy and Regime shall be:

- (i) To improve income and employment opportunities, food and nutrition security and poverty alleviation in the Community;
- (ii) To transform the fisheries sector towards market oriented, internationally competitive and environmentally sustainable harvesting and production of fish and fishery products;
- (iii) To increase production and diversification of primary fish production and value-added, processed fishery products;
- (iv) To develop an enlarged share of world markets for fish and fishery products¹
- (v) To develop and manage the fisheries resources and related ecosystems in the Caribbean Region in order to provide social and economic benefits to present and future generations of the people of the participating States, without undermining any agreed conservation and management measures.

¹ These are taken from Art.56 of the Treaty laying down the general Agricultural policy objectives which include fisheries and other agricultural subsectors.

- (vi) To set out harmonized measures and operating procedures for fisheries management, trade in fish and fishery products, fish quality assurance and the administration of the fishing industry within the context of the Revised Treaty of Chaguaramus and other international agreements.
- (vii) To build institutional capabilities of participating States to, *inter alia*, enable collaboration in formulating and implementing policy, conducting research, collecting and analyzing data.
- (viii) To provide guidance to participating States, *inter alia*, on the delimitation of maritime boundaries, the safeguarding of the marine environment from pollutants and hazardous waste and disaster preparedness for the fishing industry.²
- (ix) To promote research to facilitate decision-making regarding the sustainable use and management of the living aquatic resources including aquaculture.
- (x) To promote aquaculture development in the region

2.1.2 **Fundamental Principles**

The following fundamental principles should guide the operationalisation of the Common Fisheries Policy and Regime:

- (a) Compliance with Revised Treaty of Chaguaramas, 2001, other regional and international legal instruments and agreements;
- (b) In fisheries management decision-making, use of the best available scientific evidence taking into consideration traditional knowledge of the resources, habitats, environmental, economic, indigenous people and social factors;
- (c) Policies should be non-prejudicial to the special needs of subsistence, artisanal and small scale fishers in particular their rights to a secure and just livelihood and access to traditional fishing grounds;
- (d) Use of the precautionary approach to conserve, manage and exploit the living aquatic resources;
- (e) Protection of biodiversity, fragile ecosystem and critical fisheries habitats in the marine environment and rehabilitation where necessary;

² (v) to (viii) are taken from Article 60 of the Revised Treaty

- (f) Use post-harvest best practices in the harvesting, handling and processing of fish and fishery products in order to maintain their nutritional value, quality and safety, reduce waste and minimize the impact on the environment;
- (g) Collaboration and co-operation with Regional and International Agencies on fisheries matters in the best interest of the participating States;
- (h) Include stakeholders in all aspects of fisheries management, planning and development;
- (i) Facilitate the resolution of disputes in a peaceful and timely manner;
- (j) Adoption of species-specific conservation and management measures within the broad context of ecosystems based management systems
- (k) Promotion of good governance of the Common Fisheries Policy through transparency and accountability;
- (l) Commitment to the sharing of data and information and the dissemination thereof in a timely manner ;
- (m) Trading in fish and fishery products according to agreed standards;
- (n) Management of fishing capacity and fishing methods to facilitate resource sustainability;
- (o) Integrating fisheries into coastal area planning and management to ensure that the needs of coastal communities are met;
- (p) Promoting aquaculture as a means for diversification of income and diet;
- (q) Avoiding the use of destructive fishing gear and method, illegal, unreported and unregulated fishing.
- (r) Clear definition of responsibilities at the Community and national levels.

2.1.3 Scope of Policies

The Community Common Fisheries Policy and Regime shall include the suite of policy measures that are considered necessary to achieve the goals and objectives set out in Article 2.1.1 The scope of the policy shall therefore extend to conservation, management, and use of all fish species and all other living aquatic resources, including the processing and marketing of

fishery and aquaculture products, where such activities are practised in the territory of Member States or in waters under the jurisdiction of Member States or by Community fishing vessels or nationals of Member States, bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea, without prejudice to the primary responsibility of the flag State.

The scope of the suite of policies conceived necessary to guide the formulation and implementation of the Common Fisheries Policy and Regime includes, *inter alia*:

2.1.3.1 Access to fisheries resources

(i) Basis for access by Member and Third States:

Subject to the Revised Treaty of Chaguaramas (2001) establishing The Caribbean Community including The CARICOM Single Market and Economy³, as well as the 1982 United Nations Convention on the Law of the Sea (UNCLOS), access to fisheries resources within the Caribbean by Member States and Third States shall be as follows:

- (a) Fishing vessels of Member States shall have conditional access to waters and resources in all Community waters other than those referred to in paragraph (b), subject to such conservation measures as may be adopted from time to time by the Implementing Agency.
- (b) In their territorial waters [and internal waters], Member States shall have absolute authority to restrict fishing to fishing vessels that traditionally fish in those waters, without prejudice to such arrangements that may exist between neighbouring or other Member States for access to and management of fisheries resources.
- (c) Member States shall determine the status of their stock or fishery in their territorial waters and, in the event of surplus, may allocate licences to such other Member State or Third State, in harmony with their respective management plan.
- (d) Member States shall be authorised to fish in the common fisheries zone where the targeted fish species or group of species have been determined by the Implementing Agency to be under or un-exploited or there is a surplus.⁴
- (e) With respect to the common fisheries zone, fishing of fully or over-exploited fisheries resources shall be restricted to the particular Member State under whose jurisdiction those resources lie subject to any management measures that may be applicable to the area.

³ Chapter 3 as well as Articles 56, 57 and 60

⁴ Article 61.2 of UNCLOS/ Chapter 3 of the Revised Treaty of Chaguaramas

- (f) Member States and Third States fishing in the common fisheries zone shall comply with such conservation measures and other terms and conditions established by the Implementing Agency.

(ii) Application of this section shall be deferred for [three/five] years from the adoption of this Policy by the Conference of Heads of Government. Notwithstanding this, if a Member State wishes to give access at an earlier date, it is free so to do.

2.1.3.2 Management of the Use of Fisheries Resources:

Member States shall be committed to developing harmonized management and development strategies through:

- (i) Use of appropriate harmonised fisheries management tools and approaches:
 - (a) Member States shall, as far as possible, use appropriate harmonised fisheries management tools for limiting fishing effort and catch including but not limited to:
 1. management, conservation and recovery plans specific to the fishery
 2. allowable catches and quota systems
 3. closed seasons and closed areas
 4. minimum size of species that may be caught or landed
 5. limiting fishing effort
 6. the use of licences specific to the fishery
 7. harmonised data collection systems and the use of updated statistics
 8. the use of appropriate monitoring equipment
 - (b) Member States shall adopt management plans as far as necessary to maintain stocks within safe biological limits for the respective fisheries.
 - (c) Management plans shall be drawn up on the basis of the precautionary approach to fisheries management and take account of limit reference points recommended by relevant scientific bodies.
 - (d) Management plans should include, as appropriate:
 - (i) measures for the conservation and rational management of living marine resources, including:
 - regulating fishing methods and fishing gear,
 - prescribing the minimum size for individuals of specified species,
 - establishing open and closed fishing seasons and areas,

- regulating the amount of total catch and fishing effort and their allocation among Members, as appropriate.

(ii) targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of marine eco-systems.

(iii) measures for the implementation and monitoring of the actions mentioned Sub-section 2.1.3.2.(d) (i) and (ii);

(iv) multi-annual time frames and indicate the expected time frame for reaching the targets established;

(e) Member States shall undertake to adopt immediate preventative measures if there is evidence of a risk that fishing activities could lead to a serious threat to conservation of fisheries resources.

(f) Where Member States fail to take such preventative measures, the Implementing Agency shall have the power so to do.

(g) Where Member States take action to manage, or rehabilitate their fisheries, they should notify the Implementing Agency within a timely manner.

(ii) Monitoring, Control and Surveillance of all aspects of fisheries operations including the establishment of vessel monitoring systems as well as the elimination, deterrence and prevention of illegal, unreported and unregulated fishing:

As deemed necessary by the Implementing Agency:

a. Member States shall monitor, control and survey their maritime space and, where possible, co-operate in monitoring, controlling and surveying contiguous space in order to eliminate, deter and prevent illegal, unreported and unregulated fishing.

b. Member States shall establish an appropriate vessel monitoring system to monitor the position of their vessels.

c. Member States shall adopt port and "at sea" inspection schemes.

d. Masters of Community fishing vessels shall keep a log book of their operations.

e. Member States shall take inspection and enforcement measures necessary to ensure compliance with the rules of the Common Fisheries Policy and Regime.

f. In conformity with their national law, Member States shall ensure that appropriate measures are taken against violators of the Common Fisheries Policy.

- (iii) Mitigation of the impact of Global Warming, Climate and Other Environmental Changes on the fisheries sector by, *inter alia*, establishing appropriate monitoring and research programmes, education programmes and management response plans and adaptation strategies
- (iv) Cooperation with relevant Regional Fisheries Management Organisations in the management of shared, straddling and highly migratory resources.

2.1.3.3 Data Collection and Research

The Implementing Agency and Member States shall make decisions on the use, management and conservation of the living aquatic resources, including aquaculture on the basis of the best scientific evidence available. To this end, the Implementing Agency in collaboration with the Member States shall:

- (i) facilitate research into and comprehensive studies of the living aquatic resources and of the marine ecosystems falling within the scope of this Agreement, including the effects of global warming and climate change, environmental and socio-economic factors;
- (ii) compile data on the status of and changes in population of fresh water and marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- (iii) ensure the acquisition of catch, effort, social, economic, demographic and other relevant statistics;
- (iv) 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.
- (v) In instances where such data and information are collected in sub-paragraphs (i), (ii), (iii) and (iv) by Member States only, each Member State shall make the information collected available to the Implementing Agency at least on an annual basis.
- (vi) analyse, disseminate and publish the information referred to in sub-paragraphs (ii), (iii) and (iv) above at least on an annual basis in accordance with agreed procedures, and in a manner consistent with any applicable confidentiality requirements;

- (vii) identify and study stocks or populations of unutilized and underutilized marine living resources to determine their distribution, abundance and productivity, and sustainable harvest levels;
- (viii) identify management and conservation needs and analyse the effectiveness of management and conservation measures;
- (ix) formulate, adopt and revise management and conservation measures on the basis of the best scientific evidence available;
- (x) ensure national and regional capacity for addressing data collection and research needs specified in this sub-section.

[Another article to be added as to ownership of the data. Should this be owned by CARICOM and individual states in particular dependent on the particular fishery? To be determined by IP experts/existing CARICOM policy on related matters]

2.1.3.4 Marketing and Trade of the Fisheries Resources

- (i) Enact and keep updated appropriate harmonised food quality assurance legislation and policy including systems for use on fishing vessels;
- (ii) Encourage market stability by appropriate means, implemented in compliance with the Community's international commitments, particularly with regard to the provisions of the World Trade Organisation⁵;
- (iii) Promote policies on the production and marketing of fishery products which take account of the need to conserve and use the resource in a sustainable manner;
- (iv) Organize markets in these products which comprise such measures as will ensure that supply is better matched to demand in terms of both quality and quantity, increase the return on products, and improve the income of producers by ensuring stability of market prices;
- (v) Encourage the development and application of common marketing standards to the products concerned and keep products of unsatisfactory quality off the market;

⁵ All items - EU 104 of 2000 Council Regulation

- (vi) Implement programmes to improve product quality thus make marketing easier to the benefit of both producers and consumers;
- (vii) Represent the Community on fisheries issues in the international arena and negotiate favourable terms of trade;
- (viii) Monitor developments in internal and external markets and disseminate information to Member States and Third Parties, as appropriate.

2.1.4 The Common Fisheries Zone

Member States, without prejudice to delimitations of their maritime boundaries, agree to establish a common fisheries zone which shall be the exclusive economic zones of Member States.

2.1.5 Implementing Agency

[COMMENTARY (N. B. The following bracketed text is not to included in the Framework Document. It is background information only)

The relevant laws are Arts. 63, 64 and 123 of UNCLOS and Part III -VI of the Straddling Stocks Agreement. The text of these articles read as follows:

Article 63

Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate sub-regional or regional organizations, to agree upon the measures necessary to co-ordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate sub-regional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 64

Highly migratory species

1. *The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall co-operate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall co-operate to establish such an organization and participate in its work.*

Article 123

Co-operation of States bordering enclosed or semi-enclosed seas

States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

a) to co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea; (b) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment; (c) to co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area; (d) to invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

- 1) The Caribbean Sea has been recognized as a semi-enclosed sea and so the provisions of Article 123 are directly applicable. Articles 63 and 64 are self explanatory and are also directly applicable. These requirements have been further developed by the 1995 Straddling Fish Stocks Agreement, which provides details regarding the principles governing conservation and management of straddling and highly migratory stocks and the obligations of states and RFMOs. Part III – VI of the Agreement sets out the mechanisms for giving effect to the obligation to cooperate in the management of the species covered by the Agreement, including details on establishment and operation of RFMOs.

Description of options:

(a) ***An RFMO with competence to manage the fish species and other living marine resources in question, not including species for which a competent RFMO is already in existence, such as the Atlantic tunas and billfishes managed by ICCAT. The body would be similar to The Baltic Sea Fisheries Commission, ICCAT, or CCAMLR. In reality, this would mean allowing all the countries that share the resource or participate in the fishery, or “having a real interest in the fishery”(Art. 8, Straddling Stocks Agreement) to be involved in the planning and decision-making process in the setting-up of the organization and with regard to the exploitation, management and conservation in a non-discriminatory manner. The challenge for the Member States would be to find a way of including these countries without losing control over the body or those issues and subject matters that are really for their benefit. Maintaining such control in an RFMO is probably an unrealistic or tenuous proposition at best, at this time. An RFMO with this level of competence is clearly beyond the Treaty of Charaguamas and would therefore take the initiative beyond CARICOM.***

(b) ***A strengthened CRFM as the regional body to manage the resources within Community waters (that is waters under the jurisdiction of the Member States of the Community only, and not the entire Caribbean Sea and adjacent areas, as determined by the ecological distribution of the species and the fisheries). The body could still perform the functions of an RFMO, and if it performs them, would therefore be an RFMO, however, its competence in this regard would be limited to fish stocks occurring within Community waters (i.e. waters under the jurisdiction of Member States) and are not under the jurisdiction of another RFMO (e.g. tunas which are managed by ICCAT). In reality, the body would not have competence over the management of fish stocks that extend beyond Community waters and are shared with other states or exploited by non-Community entities. For this reason, the CARICOM body would have to collaborate with competent fishery management bodies established to (e.g. ICCAT), or decide to (e.g. CITES), manage regional resources.***

This regional body (established or designated by this agreement) would have to have a seat or represent the Community on the competent fisheries management bodies such as ICCAT. The CRFM would be expected to carry out functions of a developmental nature in addition to the purely management functions, including, inter alia, matters related to training, trade, public education, quality assurance

and seafood safety etc. Such functions would be difficult to discharge by a body established under option (a).

(c) The Status quo. There is a 3rd option open to the Member States. They may choose not to set up an RFMO (i.e., a body with management competence), but rather to establish an advisory fisheries body. This is much easier to do, as it maintains the status quo. The problem with this option, however, is that the void, which currently exists with respect to the conservation and management of shared, straddling and highly migratory resources within the context of the semi-enclosed Caribbean Sea will remain. This option would leave shared stocks largely unmanaged against a backdrop where it is becoming clear, on the basis of available scientific evidence, that more stocks may be under threat of over-exploitation, and furthermore several countries intend to, or are already expanding fishing effort. The consequence which will inevitably flow from a failure to take responsibility for management is that other organisations will fill this gap and take control over the resources and impose their will on the CARICOM Member States, as is happening now (for example, CITES and the Queen conch). Maintaining the status quo is thus not a realistic option as it will undoubtedly lead to management being imposed on CARICOM by others within the region or outside, albeit, the CARICOM countries will have the opportunity to participate in any body so established if they wish. Failure on the part of a country to become a member of any RFMO does not automatically release that state from the obligations imposed by international fisheries law.

RECOMMENDATION:

The Working Group recommends OPTION (B) for the reasons set out below:

- The issue of maintaining control over the body has been mentioned already. If it is to remain as a CARICOM body within the scope of the CSME, then option (b) is the only applicable choice.*
- Setting up an RFMO for the wider region will be a much longer and more complicated process than setting up a CARICOM body to manage resources falling under Community jurisdiction owing to the larger number of states and divergent interests that would be engaged in the negotiating process. The requirements are set out in Arts. 8&9 of the*

Straddling Stocks Agreement.

- ***Option (b) is analogous to the EC arrangement, both in respect of the competence of the fisheries body, and the European Integration process which is governed by the EC Treaties.***
- ***Option (b) could be approached as a transitional state, a first step towards the eventual establishment of a regional wide RFMO. On the face of it, it is easier to move from an RFMO with competence over resources within Community waters to the Wider Caribbean.***
- ***Option (b) permits the Community to undertake developmental activities in the interest of the Community.]***

The Implementing Agency shall be the Caribbean Regional Fisheries Mechanism with the necessary changes to the existing CRFM Agreement.

2.1.5.1 Powers of the Implementing Agency

To achieve the objectives mentioned in Sub-section 2.1.1, the Ministerial Council shall have the powers and functions to:

- (i) Establish and keep under review Community measures governing access to waters and resources and the sustainable pursuit of fishing activities within the common fisheries zone;
- (ii) Decide on catch and/or fishing effort limits and on the allocation of fishing opportunities among member States, as well as on the conditions associated with those limits;
- (iii) Keep under review the state of fishery resources, including their abundance and the level of their exploitation, as well as the state of the fisheries based thereon;
- (iv) Keep under review the economic and social aspects of the fishing industry and decide any measures aimed at its development;
- (v) Adopt management plans as far as necessary to maintain stocks within safe biological limits;
- (vi) Establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

- (vii) Where excess fishing capacity exists, establish mechanisms to reduce capacity to levels commensurate with the sustainable use of fisheries resources;
- (viii) Encourage, coordinate and, as appropriate, adopt measures for the development of human resources in all aspects of fisheries to meet the objectives of the Policy;
- (ix) Encourage, recommend, coordinate and, as appropriate, undertake research and development activities;
- (x) Assemble, publish or disseminate information regarding exploitable living aquatic resources and fisheries based on these resources;
- (xi) Promote, establish and maintain strategies and programmes for the responsible development and management of freshwater, marine and brackish water aquaculture and coastal fisheries enhancement;
- (xii) Establish a Community fishing fleet register containing the information that receives from Member States regarding the fishing vessels under their jurisdiction or flying their flag;
- (xiii) Adopt appropriate Community measures to ensure the right of consumers to safe, wholesome and unadulterated fish and fishery products;
- (xiv) Establish and maintain effective Community safety and quality assurance systems to protect consumer health and prevent commercial fraud;
- (xv) Set minimum Community standards for safety and quality assurance and ensure that these standards are effectively applied throughout the Community;
- (xvi) Adopt Community measures to promote and facilitate the production of value-added products by Member States;
- (xvii) Create new fishing opportunities for Community fishing vessels through, *inter alia*, the negotiation of fishing access agreements with Third States, and adoption of measures to facilitate and encourage Community vessels to take advantage of high seas fishing opportunities;

- (xviii) Represent the interest of the Community and Member States at regional and international fisheries fora;
- (xix) Mobilize technical and financial resources, in collaboration with multi-lateral and bi-lateral donor agencies, to promote and enhance the research, administrative and management capacities of Member States and Community fisheries institutions;
- (xx) Adopt sanctions to encourage compliance with the provisions of the Policy;
- (xxi) Delegate powers for the efficient and effective execution of its responsibilities;
- (xxii) Do such other acts and things as are necessary for the effective implementation of the Policy.

2.1.6 Membership in the Implementing Agency

Full membership shall apply to:

1. Signatories to the CRFM Agreement.
2. Any other State or Territory of the Caribbean Region that is, in the opinion of the Ministerial Council, able and willing to exercise the rights and assume the obligations of membership.

2.1.7 Dispute Settlement Questions of Interpretation and Application

1. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be referred to an Adjudicator, appointed by the Secretary General, within ten (10) days of receipt of a notification of a dispute. The Adjudicator shall give a decision in writing within twenty two (22) days of his appointment.
2. In the event that a Member State is not in agreement with the decision made by the Adjudicator, it may require that the question be referred to an arbitral tribunal whose decision shall be final. Pending the decision of the arbitral tribunal, the Mechanism, as it

considers necessary, may act on the basis of the decision of the Adjudicator.

Expenses of Adjudication

1. The expenses of adjudication, including the fees and subsistence allowances of the Adjudicator and experts engaged for the purposes of dispute settlement shall be borne equally by the Parties to the dispute unless the Secretary General, taking into account the circumstances of the case, otherwise determines.
2. When a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.

Constitution of Arbitral Tribunal (as worded at Article 206 of The Treaty)

Rules of Procedure of Arbitral Tribunal (as worded at Article 207 of The Treaty)

Third Party Intervention (as worded at Article 208 of The Treaty)

Additional Information from Experts (as worded at Article 209 of The Treaty)

Expenses of Arbitral Tribunal (as worded at Article 210 of The Treaty)

Stay of Proceedings

If any of the Member States commences legal proceedings in the Court against another Member State in respect of any dispute of the provisions of the CRFM Agreement, an application can be made the Court to stay those proceedings.

The Court, if satisfied that there is no sufficient reason why the matter should not be referred to the Arbitral Tribunal in accordance with the provisions of the Agreement, may make an order to stay the proceedings.

2.1.9 Entry Into Force

[N. B. Look at relevant article of CRFM Agreement and the Revised Treaty of Chaguaramas]

[This Agreement shall enter into force upon the signature by any seven [7] of the States mentioned in Section 2.1.6]

2.1.10 Accession

[N. B. Look at relevant article of CRFM Agreement and the Revised Treaty of Chaguaramas]

1. Any country to which Section 2.1.6 applies may accede to this Agreement.
2. Instruments of Accession shall be deposited with the Secretary-General.

2.1.11 Withdrawal

[N. B. Look at relevant article of CRFM Agreement and the Revised Treaty of Chaguaramas]

(The General Counsel of CARICOM Secretariat is to advise on sections 2.1.8, 2.1.9, 2.1.10 and 2.1.11 based upon consultation of: the Revised Treaty of Chaguaramas, the Agreement Establishing the CRFM and a RFMO Model.)

[1. A Contracting Party may withdraw from this Agreement by giving one year's notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect one year after the date on which the notice has been received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

2. A Contracting Party that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Contracting Party; this includes any matter [relating to an appeal] filed before withdrawal becomes effective.]

[PLEASE NOTE THAT PROVISION SHOULD BE MADE FOR PUBLIC EDUCATION AWARENESS PROGRAMMES AND AMENDMENT TO THE POLICY AND REGIME AND MATTERS RAISED IN "SOME THOUGHTS ON HAMMERING OUT A COMMON FISHERIES POLICY AND REGIME", AS WELL AS SANCTIONS.]