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NATIONAL CONSULTATION STRATEGY AND PACKAGE



Annex D of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States

**CRFM Secretariat
2017**



CARIFORUM

National Consultation Strategy and Package.

Annex D of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States

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FOREWORD

This document was produced under the Sanitary and Phytosanitary Measures programme, one component of the 10th EDF Programme titled “*Support to the Caribbean Forum of ACP States in the Implementation of Commitments Undertaken Under the Economic Partnership Agreement (EPA): Sanitary and Phytosanitary Measures (SPS)*”, implemented by the Inter-American Institute for Cooperation on Agriculture (IICA), with the fisheries sub-component being executed by the Caribbean Regional Fisheries Mechanism (CRFM) Secretariat. The project facilitated CARIFORUM States in gaining and improving international market access and maintaining and expanding the trade of fish and fish products locally, regionally and internationally by: (a) building equivalence with EU and other export market Sanitary and Phytosanitary (SPS) measures and (b) helping CARIFORUM states to better develop their own regionally harmonized SPS measures and institutional capability.

Under the fisheries sub-component, two specific actions were undertaken in 2015 and 2016 to develop CARICOM model legislation addressing fisheries SPS matters. These activities were closely connected to parallel actions under the SPS Programme to develop CARICOM model legislation covering food safety and animal and plant health. The instruments of model legislation for fisheries and aquaculture were reviewed and endorsed by stakeholders through two regional validation workshops and follow-up processes during August - October 2015 and December 2016 - January 2017 and subsequently passed to CRFM to facilitate review and endorsement by COTED and other CARICOM bodies.

The guidelines in this document have been designed to provide general guidance on the major steps to be undertaken to implement the CARICOM Model Legislation for the fisheries SPS sector at the national level. They cover:

- (a) national policy review and consultation on the model legislation;
- (b) legislative drafting and adoption at the national level; and
- (c) provision of models / templates for carrying out the policy and legislative processes.

The guidelines are intended to reflect relevant international and regional principles and best practices, and have been developed specifically with consideration to the work carried out under the SPS Programme, the consultations and other activities carried out with Caribbean stakeholders and the specific circumstances of CARICOM model legislation processes.

This publication is one of several related CRFM publications documenting the various consultancy reports and outputs associated with development of the model legislation for the fisheries and aquaculture sub-sectors. The list of related CRFM publications follows:

- CRFM, 2015. Final Technical Report – Technical support to develop model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Technical & Advisory Document*, No. 2015/ 07. 368p.
- CRFM, 2015. Report of Regional Validation Workshop for the Fisheries Component of the 10th EDF funded Sanitary and Phytosanitary Measures Project. *CRFM Technical & Advisory Document* No. 2015 /08. 111p.
- CRFM, 2017. Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Technical & Advisory Document*, No. 2017 / 03.
- CRFM, 2017. Model Legislation for Health and Food Safety in Fisheries and Aaquaculture. Annex C of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Special Publication*, No. 19. 143p.

- CRFM, 2017. National Consultation Strategy and Package. Annex D of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Special Publication*, No. 20. 39p.
- CRFM, 2017. Regional Consultation Strategy and Package. Annex E of Final Technical Report: Technical support to promote the adoption of comprehensive model legislation, protocols, guidelines for health and food safety related to fisheries and aquaculture in CARIFORUM States. *CRFM Special Publication*, No. 21. 36p.

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ACRONYMS AND ABBREVIATIONS

AGO	Attorney-General's Office
AHFS	Agricultural Health and Food Safety
CAHFSA	CARICOM Agricultural Health and Food Safety Agency
Carib-Vet	Caribbean Animal Health Surveillance Network
CARICOM	Caribbean Community
CEO	Chief Executive Officer
COTED	Council for Trade and Economic Development
CRFM	Caribbean Regional Fisheries Mechanism
CROSQ	CARICO Regional Organization for Standards and Quality
CSME	Caribbean Single Market and Economy
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FDA	Food and Drug Administration
FSMA	Food Safety Modernization Act
GAP	Good Agricultural Practice
GMO	Genetically Modified Organism
HACCP	Hazard Analysis and Critical Control Points
ICPM	International Commission on Phytosanitary Measures
IICA	Inter-American Institute for Cooperation on Agriculture
IPPC	International Plant Protection Convention
ISO	International Organization for Standardization
MOU	Memorandum of Understanding
NAHFSA	National Agricultural Health and Food Safety Authority
NAHFSC	National Agricultural health and Food Safety Committee
NGO	Non-Government Organization
OIE	World Organisation for Animal Health
SPS	Sanitary and Phytosanitary measures
TBT	Technical Barrier to Trade
UK	United Kingdom
USA	United States of America
USDA	United States Department of Agriculture
WHO	World Health Organization
WTO	World Trade Organization

PART 1 | INTRODUCTION

Purpose and target of the Guidelines

- 1 The purpose of these Guidelines is to outline the key steps at the national level for reviewing, consulting on and enacting model legislative instruments developed for sanitary and phytosanitary controls (SPS) in the Caribbean fisheries sector (“Model Fisheries SPS Legislation”).¹ Specifically, this concerns:
 - Model Aquatic Animals and Aquatic Animal Products Bill
 - Model Fish Inspection Regulations
 - Model Aquatic Animal Health Regulations.
- 2 This can be a lengthy, complex and unpredictable process in most (if not all) jurisdictions. While it is not possible in these Guidelines to predict all potential challenges and hurdles that will need to be managed, some key methodologies may be outlined which will help to manage likely challenges and risks. In addition, templates for some of the documents that will need to be developed (e.g. consultation materials for stakeholders, drafting instructions for Parliamentary Counsel, Cabinet submissions, etc.) are provided to facilitate the national process.
- 3 The Guidelines are therefore aimed at government officials primarily in the fisheries, food safety and animal health sectors. The Guidelines are both general and specific. The methodologies themselves are based on general approaches that are commonly applied to the processes concerned. At the same time, the Guidelines will address the specific positions of the Model Fisheries SPS Legislation.
- 4 These Guidelines, and the processes they describe, also need to take account very closely of other CARICOM model legislation in the area of food safety and agricultural health (“Model CARICOM AHFS Legislation”). The additional model instruments concerned are:
 - Model Food Safety Bill
 - Model Animal Health Bill
 - Model Plant Health Bill.

Structure of the Guidelines

- 5 These guidelines have been developed in three main parts, in addition to this introduction:
 - Part 2 | Policy Process:** provides general guidance on the next steps to be taken to complete and finalise decisions on what is needed in national legislation (taking account of the model legislation), including (as needed) further stakeholder consultations and consultative dialogues with key governmental partners.
 - Part 3 | Legislative Process:** provides an overview of the main steps to take the text from draft legislation to enacted law, with suggested strategies to manage these processes successfully.
 - Part 4 | Using the Templates:** provides some general guidance on how to use the templates.
 - Annexes:** provide templates for certain procedural documents.

¹ For a general background to the Project, see “About this Document”. See also the Caribbean Regional Fisheries Mechanism (CRFM) website at: [insert url].

How to use the Guidelines

- 6 The Guidelines are not intended to replace specific national consultation, policy or legislative guidelines or procedures. Rather it is intended that they be used alongside, to inform national guidelines and procedures and to provide tools that can be used in national policy reviews, consultations and legislative processes.
- 7 Whilst it is understood member countries are well-versed in such procedures, and have specific national mechanisms, the Strategy document will make specific reference to the legislative instruments and consultation tools developed within the project.

PART 2 | NATIONAL POLICY AND CONSULTATION STRATEGY

- 1 The CARICOM model instruments aim to develop and harmonise legislative standards across the Caribbean, but are subject to national adaptation and implementation. Critical policy questions relating to implementation will need to be addressed at the national level, which will need to resolve how the model instruments and national policy objectives should be assimilated.
- 2 Strictly speaking, legislation should follow policy, rather than legislation dictating policy. In the context of the Model Fisheries SPS Legislation, in all Caribbean countries, both processes have already started, however (both by participation in regional processes and workshops on food safety and agricultural health, including on the development of Model CARICOM AHFS Legislation, and at the national level, including in some countries recent adoption of new primary legislation). Therefore, it is likely to be timely for any country to review current policies and needs against the Model Fisheries SPS Legislation, and to consider what new steps might be taken. Even for countries that have recently adopted new legislation, the Model Fisheries SPS Legislation will be a helpful point of reference for monitoring and evaluation exercises and there may be scope for closer harmonisation within the context of the CSME.
- 3 The following sections outline some of the key steps that might be taken in these processes.

Preliminary steps

- 4 There is no specific approach or model to the policy process. Each country will have its own procedures, culture and system and any process will depend on the nature of what needs to be developed – for example, in some countries it may be necessary to conduct general policy reviews on needs within the fisheries (SPS/trade) sector, while in other countries there may be on-going developments, and even recently introduced legislation, in this area. It is of course the case that, currently, Caribbean countries vary widely in terms of their fisheries SPS capacities, regulation and policy aims. The following guidance is intended to inform and supplement (and is subject to) national policy approaches, focussed on supporting the development of new legislation based on the Model Fisheries SPS Legislation.
- 5 As the very first step, the ownership of the process needs to be determined. A policy decision needs to be taken on which Department will lead the process. This might be the Fisheries Department, the Veterinary Services Department, the national Agricultural Health Authority/Committee or some other government body. If it exists, the NAHFSC could take this decision. It may be agreed (and would likely in any case already be part of its existing functions) that the NAHFSC acts as an overall steering committee to oversee policy and legislative processes.
- 6 A focal point within the lead department should be nominated, and it should be agreed that performance of this role is supported in the Department (including through the allocation of person days to carry out tasks).
- 7 The main steps of the policy process should be mapped.

Establish a Working Group

- 8 The main agencies concerned with fisheries SPS must ensure close coordination and develop a common understanding. There are no overriding requirements for the composition of a working group, but logically it would include representatives from the departments responsible for fisheries,

food safety and agricultural health, respectively. Depending on the stage of policy development, a representative from the Attorney-General's Office (or equivalent) may be a useful addition.

- 9 The Working Group would need to develop its own terms of reference, but the following activities are likely to be necessary—
 - a) developing a timetable, strategy and/or roadmap for the next steps;
 - b) initiating the necessary meetings and discussions geared to resolving each of the outstanding issues;
 - c) ensuring that all relevant stakeholders are consulted in the issues resolution process;
 - d) ensuring that the final agreed positions are correctly documented and the necessary adjustments/changes to the draft legislation reflect the agreed positions/consensus.
- 10 Given the range of interests concerned in fisheries SPS matters, even just at the governmental (let alone industry and non-governmental) level, there needs to be some mechanism to coordinate discussions and generate momentum in the process. The idea behind a working group (as opposed to relying on an existing mechanism, such as the NAHFSC or equivalent) is to enable closer and more dynamic cooperation than is possible in a large body (e.g. the National Agricultural Health and Food Safety Committee, or equivalent). The working group should report to the wider Committee, however.

Develop policy

- 11 These guidelines are based on the premise that the primary purpose of the policy process is to review and make adaptations necessary to harmonise legislation with the Model Fisheries SPS Legislation. However, it should be noted that – in principle – legislation should follow policy, and there may need to be wider policy discussions at the national level. In particular, if there is no overall strategic vision for the fisheries sector (at least as regards trade and AHFS standards) this would need to be developed (see later in this section *Is there a national strategic vision?*).
- 12 Each country will have its own procedures and culture for developing policy in support of legislation, and there is no particular model. A potential model might be developed using the following key steps.

Preliminary review

- 13 A baseline understanding of the needs of the fisheries sector needs to be established. That might be developed by—
 - reviewing the status of the fisheries (trade) sector, including capacities to take fisheries SPS measures;
 - engage with stakeholders to understand the strategic visions and aims for the sector (how will current fisheries and aquaculture / mariculture production be developed, including diversification to new species; what processing adaptations are desired – e.g. how can more value be added and retained in the national economy; where might new markets be accessed and developed; what standards do the fishing industry want to develop, etc.);
 - analysing current legislation, in particular to assess how extensively updating is required (primary and secondary legislation).
- 14 Depending on the extent of current understanding and extent of recent engagements with stakeholders on these issues, it may be appropriate to hold informal or even formal consultations at this stage (see below: *Consultations*).

Is there a national strategic vision?

- 15 If there have been no recent consultations or other dialogues with stakeholders and no national vision is present, wider ranging discussions should be conducted on the aims and ambitions for the fisheries sector in the contexts of AHFS and trade. A common vision, shared by all major stakeholders, at the national level is a pre-requisite to the development of any specific policy, and it provides a foundation for decisions concerning development of legislation.
- 16 This stage in the process should not be underestimated. A common strategic vision:
- can be **indispensable support** to the political decision to develop policy and/or legislation (and encourage the mobilisation of government resources, financial or otherwise)
 - entails a process that **promotes understanding** amongst all stakeholders of the importance and contribution of a country's fishing industry, and the importance of addressing food safety and agricultural health matters
 - **highlights national issues** related to fisheries, food safety and agricultural health and **brings together** all government administrations and all major stakeholders into a common process.
- 17 The vision underlies all components of the concerned (fisheries, food safety, agricultural health) policies, strategies and regulation. It basically expresses a political will: it defines what the country does and does not want, and which way these objectives should be pursued in the long-term. This reference should be common to all national concerned stakeholders, be they public or private.
- 18 The creation of a national vision entails a comprehensive and inclusive process, to be conducted amongst all concerned administrations and in partnership with the major stakeholders. It is an iterative process (the national vision should be periodically reviewed and adapted, based on a proper evaluation process) and can be developed as knowledge, capacity and ambitions develop.

Determine policy

- 19 Once the broad vision for policy is defined, the contents of national policy can be developed. Strictly speaking, legislation should follow policy rather than legislation dictating policy, but in the present context key issues to be defined will focus on how the Model Fisheries SPS legislation might be adapted to meet the specific policy aims. At this stage, the focus is on the *policy aims* and *legislative implications*, i.e. what changes are needed to existing legislation to meet agreed policy aims (whilst at the same time harmonizing legislation as far as possible with the model legislation).
- 20 In terms of legislative implications, two key issues will need to be considered—
- the inter-relationship with wider AHFS legislation and reforms should be agreed and defined; and
 - the specific legislative adaptations to the model legislation that will be required to meet defined policy goals.

Determine relationship with other AHFS legislation or reforms

- 21 A critical question will concern the organization of the primary legislation in the overall context of AHFS. The content of the Model Fisheries SPS Legislation (and in particular the Bill) does not necessarily need to be produced as stand-alone instruments, and may be incorporated within other AHFS reforms, if these are taking place, or may fit within existing primary legislation. All three Model AHFS Bills are intended to (and do) provide a complete code for, respectively, food safety,

animal health and plant health and it follows that there should not in principle be need for separate primary legislation addressing the fisheries sector.²

- 22 Nevertheless, there are some matters that the Bills (primarily in relation to the Food Safety Bill) do not provide for extensively as regards the fisheries sector, in particular—
- licensing of and standards for fishing vessels (food safety)
 - management of marine and inland waters for food safety and animal health regulation (e.g. demarcation of waters for food safety purposes)
 - inspection and monitoring at sea and on board fishing vessels
 - certain jurisdictional and evidential issues that tend to arise in the enforcement of matters at sea, and
 - specific governance processes to ensure an effective role for the government’s fisheries authority.
- 23 The organization of the legislation will be partly a policy matter and partly a legislative matter.
- 24 In terms of **policy**, relevant considerations will include—
- what already exists or is planned in terms of the overall institutional architecture for AHFS (e.g. is there, or is it intended to create, a single agency with competence for AHFS matters);
 - how it is intended to allocate responsibilities for dealing with SPS matters in the fisheries sector (e.g. what role is planned for the fisheries department and fisheries officers);
 - whether additional governance mechanisms needed; and
 - how to most clearly organize and present (including in legislation) the AHFS framework so it is easily understood and accessed by stakeholders.
- 25 In terms of **legislation**, relevant considerations will include—
- the balance between primary and secondary legislation (and the general principle of only making primary legislation where necessary)
 - the sufficiency of regulatory making powers under existing or proposed primary legislation in the AHFS sector (which will determine the extent to which fisheries specific measures can be included in secondary legislation)
 - national legislative conventions.

Adapting the model legislation to the national level

- 26 Taking account of the policy and other considerations outlined above, it will then be necessary to review of current legislation to determine the degree of harmonization with model CARICOM legislation (the Model Fisheries SPS legislation and the Model AHFS Bills) and the capacity of current primary legislation (in particular, the scope of its regulatory making powers and enforcement powers) to provide for the implementation of the regulations and other measures needed for effective SPS controls.

² Primarily, it is considered that the Model AHFS Bills provide a complete code at the primary legislation level for SPS matters, including for fisheries. Both Bills apply to fish (and other aquatic species) and fish / aquatic products. In the Food Safety Bill – although no food types are specifically mentioned – the definition of food (s. 2) clearly includes fisheries; but in any case, s. 3 on scope confirms that the Bill applies to “all food” notwithstanding other legislation that may exist on “fish and aquaculture products, meat or other specific food products”. As regards the Animal Health Bill, “fish” and all other “aquatic” animals are included in the definition of “animal” (s. 2). In the Plant Protection Bill, “plant” is defined as “any living plant and the parts thereof, including a seed or germplasm” which includes aquatic plants. Moreover, these definitions follow international standards, which include fish and aquatic species within these definitions.

- 27 The precise scope of the Act and Regulations, and the division and structure of primary and secondary legislation, would need to be adapted to national circumstances, taking account of national policy and the composition and structure of the fisheries sector. This should be a multi-disciplinary exercise, with the participation of a range of public and private stakeholders.
- 28 In this context, it is noted that according to (Codex) CAC/GL 82-2013, policy decisions guide legislation and require a careful assessment of stakeholder interests, how the food control system will relate to international and national standards, assessment of risks and/or benefits, effectiveness and efficiency of various controls and methods of oversight, existing and planned government structures, coordination among authorities along the food chain, technical and scientific information, the roles of government and food business operators, and best practices/models. Similar considerations would of course apply to animal and plant health.
- 29 Legislation must also consider any international, regional or bilateral obligations of the country. Stakeholders must understand the full extent, scope and implications of the legislation and its operation and implementation in practice. This is an important consideration, because a new, well-drafted law may not necessarily remove operational, implementation or compliance challenges in the existing framework.
- 30 The legislation must also be designed in accordance with recognized (best practice) principles aimed at ensuring legislation is targeted, proportionate, consistent, transparent and accountable (see **Annex 4 | Regulatory Principles** for elaboration).

Targeted	regulatory instruments should target a particular policy aim , and address only relevant issues and persons
Proportionate	regulation must be no more than is required to achieve the aim (not "too heavy" or "too light") - it should not impose a heavy burden on competitiveness
Consistent	consistent in itself; consistent with other laws; capable of consistent implementation
Transparent	regulation should be open, simple and user-friendly - good regulation must be well understood and usually supported by the majority of the industry
Accountable	implementing authority should be accountable for regulations and able to justify decisions taken under them; consistent procedures are required

Figure 1: Regulatory Principles

- 31 The Principles are a useful toolkit for measuring and improving the quality of regulation and its enforcement, setting the context for dialogue between stakeholders and government.
- 32 Meetings at this stage will be needed with Minister and Permanent Secretary/CEO to brief them on status of the policy and legislative proposals (and the results of any consultations) and to explain the need for new legislation. During this stage, it is not necessary to elaborate draft legislation at the national level (although preliminary drafts could be used for consultation, if desired). Nevertheless, consideration should be given to what policy and technical measures might need and what changes this might imply to the model legislation.
- 33 The model legislation can be used directly, along with **annotated explanatory notes** which identify a number of areas in which the legislation is particularly country and context specific.

Consultations

- 34 Whilst final decisions concerning policy and implementation of fisheries sector AHFS measures and rules rest with Government, it is important that decisions reflect both the knowledge and aspirations of fisheries sector participants and other stakeholders and the ability of the fisheries industry to comply with and follow the rules. Without this industry consultation, policy or regulations may lack validity and may fail to reflect the ambitions and concerns that are required to ensure future ownership and legitimacy.
- 35 It is important therefore to consult regularly and to consult properly with stakeholders. It is important that consultation processes are conducted at a suitable scale to reflect the existing and emerging industry structure, and be conducted in a manner that ensures that feedback is adequately reflected in the developing decisions. Communicating with stakeholders can be achieved through a number of means, in addition to formal channels such as the NAHFSC. These include: face to face meetings (e.g. personal meetings with key individual stakeholders); group meetings (e.g. community meetings or consultations); internet; workshops, etc.
- 36 At some point, it will also be necessary to hold a formal (written) consultation exercise. Protocols and procedures may exist at the national or departmental level for conducting formal consultations, which of course need to be followed.
- 37 In general terms, consultations should follow a number of key principles which will help guide and maximise the benefit of interactions with stakeholders (see Annex 5 for a general guide to the criteria, and the considerations they imply). These principles (criteria) are—

Criterion 1 When to consult: Formal consultation should take place at a stage when there is scope to influence the policy outcome. In the context of the Model Fisheries SPS Legislation, this will require judgements based on the extent of current strategic visions and the policy reforms involved and the degree to which there have been recent discussions (formal or informal consultations) with stakeholders. Where there is no strategic vision, and there need to be baseline discussions about the future of the industry, it is likely that a formal consultation will be needed earlier. In some cases, consideration may need to be given to a second formal consultation exercise at a later stage.

Criterion 2 Duration of consultation exercises: Consultations should allow sufficient time for stakeholders to review the proposal, consult amongst each other and draw up considered responses. This will depend on the number of stakeholders and how easily they can be consulted. In the context of the AHFS sector, it should be taken into account that the range of stakeholders is wide and will need to extend beyond the scope of any individual departments main stakeholder group.

Criterion 3 Clarity of scope and impact: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the rationale for the proposals. This should not rely simply of the need to meet international standards, etc., but should reflect the specific policy goals for the national fisheries sector that have been previously elaborated.

Criterion 4 Accessibility of consultation exercises: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach. Responses by email or via a website should be provided, but it should be recognized that many AHFS stakeholders do not communicate will via this medium. Where feasible, consideration should be given to localised meetings.

Criterion 5 The burden of consultation: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained. While needing to outline the proposals and rationale in full, the consultation document should be as brief as possible. Simplified summaries of backgrounders could be provided where it is anticipated stakeholders will be reluctant to review the full document.

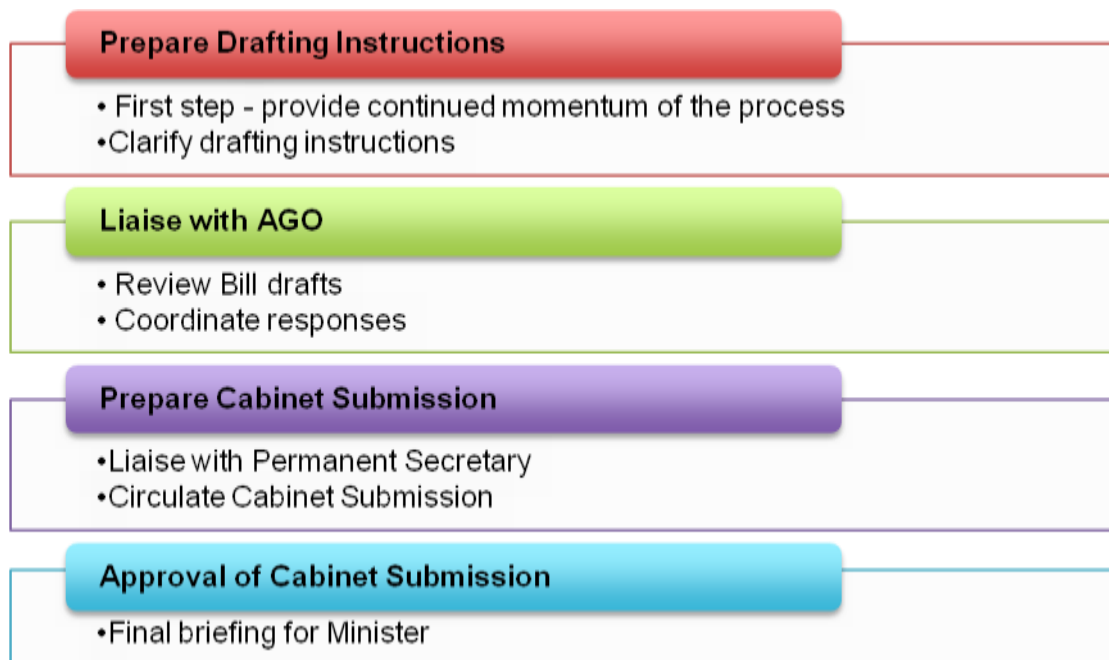
Criterion 6 Responsiveness of consultation exercises: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation (e.g. by making government responses available on the government website).

- 38 A model / outline consultation document and a stakeholder introduction letter, consistent with these criteria, have been produced and are included in the Annexes.

See Annex 1A and 1B – Templates – Stakeholder Introduction Letter; Consultation Document

PART 3 | LEGISLATIVE PROCESS

- 1 In order to effectively manage the legislative process a number of steps will need to be undertaken. These steps are set out below; however: **it is essential that national protocols are followed.** The particular steps, including when and on what agreement of Ministers or Cabinet must be sought (while mostly similar) vary from country to country. The guidance below is based on key common approaches in Caribbean jurisdictions but should not be viewed as definitive, and be used alongside national guidance and procedures.



Prepare drafting instructions

- 2 Drafting instructions should be prepared for the Attorney-General's Office. The close cooperation developed during the policy stage should be continued.
- 3 Depending on the progress and outcomes of the discussions during the first phase, consideration should be given to whether preliminary drafting instructions should be prepared and circulated to interested departments at the time of preparation of a Cabinet submission. This ensures that the precise nature of the proposal is understood when it is put to Cabinet and that all the major issues are raised.
- 4 Departments receiving copies of the preliminary drafting instructions should provide comments to the instructing department in sufficient time to enable either the submission to be amended or the comments to be included in the coordination section of the submission. Any comments provided should be copied to all other departments and authorities consulted on the submission.
- 5 Cabinet (or at least Ministerial) approval is normally required before Parliamentary Counsel can be formally instructed. In this case (unless specifically requested otherwise) the objective is not to seek Cabinet's endorsement of the form or wording of proposed legislation; a submission or memorandum should focus on the policy to be implemented but should not prescribe the way in which policy details

are to be legislated. Nevertheless, national guidance should be followed as to whether preliminary or final drafting instructions need to be attached.

See Annex 1D1 – Template – Cabinet Submission Seeking Approval to Instruct Parliamentary Counsel

- 6 It should be noted that there may also be different procedures for the drafting of regulations. If primary legislation is to be introduced, the preparation of the legal texts will be prepared by Parliamentary Counsel in the Attorney-General's Office (or equivalent) and Cabinet approval will be required. Regulations typically require only Ministerial approval under enabling Acts (although are frequently discussed at Cabinet level) and enter into force through a different Parliamentary procedure. Additionally, in some jurisdictions the practice is to draft regulations in-house, rather than via the Attorney-General's Office. Whether regulations are prepared in-house, or whether they are prepared by specialist legislative drafters (e.g. in the Attorney-General's Office), it is advisable to prepare drafting instructions.
- 7 While (unless specified at the national level) there is no specific format for drafting instructions, they might usefully include the following elements—
 - **Background** – What is the problem being addressed?
 - **Rationale** – Why is this particular solution chosen (that is, how do you expect that it will address the problem; this might include an explanation as to why primary legislation is needed)?
 - **Current legislation** – a description of the legislative provisions, relevant common law rules and case law (where relevant) and also (where appropriate) examples of how all that operates in practice.
 - **Specifics of the proposal** – How is the proposed legislation intended to work (the details of how you intend to accomplish the objective)?
- 8 When describing the specifics of the proposal, instructions in the form of draft legislation are not always encouraged, but are also not usually prohibited. (In cases of doubt, the drafting officers should consult with the Attorney-General's Office).
- 9 Sometimes using a legislative form can be helpful to a ministry in thinking out its policy and administrative details in a coherent way. However, if instructions are provided in the form of draft legislation—
 - each provision of the draft must be fully annotated to provide the background, objective and rationale described above, and
 - the instructing department should understand that legislative counsel are responsible for the final legislation and are not bound to follow the organization or language proposed in the drafting instructions.
- 10 Drafting instructions should be written in clear, straightforward language, keeping in mind the purposes and providing the information described above. Instructions may be provided in point form or as a plain prose account. Topic headings are often helpful. Where appropriate, it can be very helpful to include flow charts, diagrams and tables with the instructions: they help to illustrate a proposed process or to indicate the intended relationship between concepts.
- 11 A template for drafting instructions, along with annotated explanatory notes, based on the above approaches, is available.

See Annex 1C – Template – Drafting Instructions

See also: Model Fisheries SPS Legislation and Annotated Explanatory Notes

Liaise with the Attorney General’s Office

- 12 After submitting the Drafting Instructions to the Attorney General’s Office a meeting should be arranged with the person responsible for drafting the legislation. At this meeting DMR should be in position to clarify any issues raised by the Attorney General’s Office.
- 13 During the course of the drafting of the legislation, various questions may be raised by the Attorney General’s Office. The instructing department should be in a position to promptly respond to these questions. This may require liaison with other departments (bilaterally, or through the working group set up during the policy phase or the NAHFSC). The Attorney General’s office may for example seek clarification and explanation of technical terms used in the drafting instructions, or of the intentions of particular provisions.
- 14 The instructing department should monitor the progress of the draft legislation whilst it is in the Attorney General’s Office. It may be necessary to have telephone follow up calls etc. It is helpful to identify the person responsible for drafting the legislation from the beginning so that contact can be made as required.
- 15 Once the (pre-)final draft of the Bill has been prepared, the text should be reviewed to ensure it is consistent with agreed policy intentions. The text should be circulated to the other departments concerned for comment.

Prepare Cabinet Submission

- 16 Once the draft Bill has been approved by departments at the Attorney-General’s Office, steps need to be taken to obtain Cabinet approval of the Bill and to table it before Parliament. Specific procedures for subordinate legislation will vary from country to country, but in most cases a Ministerial or Cabinet submission will need to be prepared, in close consultation with the Permanent Secretary/CEO.

See Annex 1D2 – Template – Cabinet Submission Seeking Approval of Draft Bill

Approval of Cabinet Submission

- 17 Should Cabinet consideration lead to further drafting, the processes above will need to be repeated. Care should be taken to ensure that non-instructing departments have the opportunity to input.
- 18 Once Cabinet approval has been obtained, the instructing department can assist the Minister, in consultation with the Permanent Secretary, in tabling the Bill, including preparing the Minister’s speech presenting the Bill to Parliament. Further assistance may be required during the Parliamentary phase in responding to questions arising out of the scrutiny procedures.

PART 4 | USING THE TEMPLATES

Annex 1 to these guidelines set out templates which might be used when consulting stakeholders on the Model Fisheries SPS Legislation. These cover:

- Stakeholder Introduction Letter
- Consultation Document
- Drafting Instructions
- Cabinet Submission

Templates for some or all such documents may already exist in any country, or there may otherwise be standard forms, protocols or approaches for these types of documents. These templates are intended to be used alongside national formats where they exist, as the templates are designed in part to draw on the Model Fisheries SPS Legislation to provide specific guidance. Nevertheless, final decisions on both format and content are for individual authoring departments and will in any case vary substantially depending on national contexts and proposed implementation strategies.

Specific guidelines on use are set out in the introductory sections of each template.

APPENDIX 1 | TEMPLATES

1A | Stakeholder Introduction Letter Template

The purpose of this letter is to introduce the consultation exercise to stakeholders and to enable individual stakeholders to ascertain whether the consultation is relevant for them. The rationale and key features of the proposed reforms should very briefly be described and the date and methods for responses should be described. Depending on the nature of the consultation exercise, and the stakeholders involved, separate letters may need to be developed for different groups.

To [All Stakeholders / Selected Stakeholders]:

The Government is intending to introduce new legislation to strengthen sanitary and phytosanitary controls in the fisheries sector so as [*enter main aim of reforms consistent with the national vision, e.g. to enable the fishing industry to meet the ever-increasing demands in export markets and nationally in food safety and agricultural health of fish and other aquatic products*].

The following legislation is being considered:

[*list legislation to be introduced, e.g.*

- *Aquatic Animals and Aquatic Animal Products Hygiene Bill*
- *Fish Hygiene Licensing and Inspection Regulations*
- *Aquatic Animal Health Regulations*].

The new Regulations seek to implement at the national level model CARICOM Regulations on Fish Hygiene Licensing and Inspection and Aquatic Animal Health and form part of an overall package of measures [*refer to other legislation in the SPS sector that exists or is being introduced, e.g. the other CARICOM Model Instruments*]. [*Separate consultation exercises are being organized for the other AHFS Bills*].

Stakeholder consultations

The [*Fisheries Department*] is therefore organizing a formal consultation on the proposed introduction of new legislation. We are seeking the views of all stakeholders. The attached **Consultation Document** sets out the reasons for the proposed reforms and the key questions on which we are seeking stakeholder views.

Your opinions and other comments may be submitted [*describe methods for stakeholders to submit views*] by [**date**]. [*If stakeholder consultation meetings are to be held, these could be listed*].

After the submission date, the views will be reviewed by the Government and a report and conclusions of the consultation will be published on the Department's website.

If you have any questions on this consultation exercise, please contact [*enter contact details*].

1B | Consultation Document Template

The purpose of the Consultation Document is to set out the background (rationale, objectives and main elements) of the proposed reforms, and to identify the key questions on which stakeholder views will contribute. The consultation process should also be described (consistently with the **consultation principles**), including how stakeholders may respond to the consultation.

The contents of the document will need to be adapted to the specific consultation exercise (see main body of these Guidelines). In particular, the consultation exercise may or may not be focussed specifically on the proposed new legislation and may or may not include draft legislation and/or explanatory notes. It is also noted that there may need to be more than one consultation exercise.

The following template assumes that it is intended to consult specifically on draft legislation, but prior to submitting formal drafting instructions to Parliamentary Counsel (or equivalent).

Introduction

The Government is intending to introduce new legislation to strengthen sanitary and phytosanitary controls in the fisheries sector so as *[enter main aim of reforms consistent with the national vision, e.g. to enable the fishing industry to meet the ever-increasing demands in export markets and nationally in food safety and agricultural health of fish and other aquatic products]*.

The new Regulations seek to implement at the national level model CARICOM Regulations on Fish Hygiene Licensing and Inspection and Aquatic Animal Health and form part of an overall package of measures *[refer to other legislation in the SPS sector that exists or is being introduced, e.g. the other CARICOM Model Instruments]*. *[Separate consultation exercises are being organized for the other AHFS Bills]*.

This Consultation Document sets out the background to the Government's proposal and sets out the reasons why the Government thinks changes are necessary.

Background

[This paragraph could be replaced by a description of the national fisheries sector]. The fisheries sector in *[country]* provides employment, contributes to food security and to export earnings. A small but important proportion of catches is exported (usually after some primary level processing, e.g. freezing and packaging), the main export market(s) being *[the United States, the European Union and Canada, along with intra-regional trade within the Caribbean]*. Other markets are growing, such as those in Latin America and Asia, and offer potential for further development.

The development, and even maintenance, of international markets for fisheries products raises significant challenges. The regulatory requirements imposed in export markets are in continual development, driven by changing SPS risks (including as a result of environmental and climate impacts); increasing knowledge about SPS risks; increasing technological advances both in relation to detection and management; increasing food safety awareness amongst consumers; and moving regulatory requirements (in particular, that more and more countries are extending their application of international AHFS standards).

Similar to other Caribbean and other in-transition countries, *[country name]* is faced with severe challenges due to financial, legal, technological and human resource constraints. Effective agricultural health and food safety control measures, including those for fisheries, are undermined by *[the existence of*

out-dated and/or fragmented legislation, multiple jurisdictions, weaknesses in food-borne related diseases (FBDs) surveillance, inadequate monitoring and enforcement of regulations, inadequate budgetary allocations and a lack of facilities and trained personnel].

The Government has taken several recent steps to respond to these challenges which can support national and international fisheries trade. *[These could be mentioned, e.g. establishment of a NAHFSC, participation in CRFM and IICA initiatives, etc.].*

In order to maintain and develop export markets for fisheries and other aquatic products in the long-term, it is imperative that the proper legal foundations are laid.

Status of AHFS in the Fisheries Sector

[This section is entirely country specific. Earlier consultations and development of the national vision should inform this section, and any specific exercises and outputs should be referred to. The following matters could be described: the fisheries and other aquatic products that are produced; how these are processed, and what the future processing potential might be; current trade patterns and flows, to key export markets, intra-regionally and the domestic market; operational systems (e.g. application of HACCP) used in the private sector; stated ambitions for the sector, etc.]

[In order to develop new products, more added-value and exploit markets more efficiently, legal controls must enable operators to apply and the Government to enforce the highest AHFS standards.]

CARICOM Framework

Article 57(1) of the Revised Treaty of Chaguaramas, concerning implementation of the Caribbean Community Agriculture Policy, calls for the establishment of an effective regime of SPS measures. Trade in fisheries products is also an integral component of Community Trade Policy, under Chapter 5, and of the Caribbean Single Market and Economy (CSME). *[The recently adopted CARICOM Model Legislation on agricultural health and food safety, including in the fisheries sector, is a key step towards furthering harmonization of SPS measures within the Caribbean, and entails an obligation on [country] to review its own legislation].*

The Caribbean Community Common Fisheries Policy includes several provisions addressing trade and SPS measures specifically within the fisheries sector, including 3 of the 9 objectives (Art 4.3(b) (g) and (i)), and Article 18 which calls for cooperation in the development of: harmonised food quality assurance legislation; harmonised intra-regional SPS measures; common marketing standards for fisheries and aquaculture products; and national or common policies, measures and standards to (among other things): develop new and existing markets in fishery products including external markets for the Caribbean region's fisheries products and facilitate trade.

Also contributing at the Caribbean level is the recently constituted Caribbean Agricultural Health and Food Safety Agency (CAHFSA), as the agency with primary responsibility for AHFS matters, and CROSQ which develops Caribbean Standards, including those relating to AHFS. A CRFM/CAHFSA/CROSQ MOU is currently being negotiated.

In order to fulfil our commitments under CARICOM mechanisms, and specifically in order to harmonize national legislation with CARICOM model legislation, we must update current AHFS legislation as it applies to the fisheries sector.

Global Standards

Globally there is considerable existing standardisation in food safety and agricultural health. These standards set the framework not only for AHFS nationally but also in countries of export. Standards, Codes of Practice, Guidelines and other instruments (hereafter referred to just as “Standards”) are produced by various global organizations - foremost *Codex Alimentarius* in relation to food safety; the *World Organisation for Animal Health* (OIE) in relation to animal health; and the *International Commission for Phytosanitary Measures* (ICPM) in relation to plant health. The Standards need to be implemented taking account of other international rules (for example, those of the World Trade Organization concerning SPS and technical barriers to trade) and – as appropriate – specific national requirements in export countries.



Figure 2 - Overview of the International Standards Framework

Some of these Standards relate specifically to fisheries and other aquatic species (e.g. the Codex *Code of Practice for Fish and Fisheries Products* and the OIE *Aquatic Animal Health Code*) but most are directed towards “food”, “animals” or “plants” generally. In these cases, specific adaptations for the fisheries sector may be necessary.

In order to realise the full potential of the fisheries sector, and meet the needs and expectations of our consumers, it is necessary that compliance with international standards can be ensured.

Proposed Legislation

The following legislation is being considered:

[list legislation to be introduced, e.g.

- *Aquatic Animals and Aquatic Animal Products Hygiene Bill*
- *Fish Hygiene Licensing and Inspection Regulations*
- *Aquatic Animal Health Regulations*].

The legislation will [supplement/replace/amend – describe how the new legislation will impact existing legislation].

[Describe the key purposes and aspects of the legislation. If the Model Fisheries SPS Legislation or draft national legislation is to be presented, this can be appended and cross-referred to. The explanatory note could also be (additionally or alternatively) be appended, adapted as necessary to the draft legislation presented].

The purposes of the Bill are to provide for certain regulatory and enforcement powers of the Fisheries Department and competent authorities³ dealing with food safety, animal health and plant health as regards aquatic animals and aquatic products (including aquatic plants aquatic food products) and to provide for aquatic animal health matters relating to production, exports and imports.

The purposes of the Fish Hygiene Licensing and Inspection Regulations are focused on the licensing of fishing vessels for SPS purposes, and with defining the technical SPS requirements for fishing vessels and marine capture fishing operations.

The purposes of the Aquatic Animal Health Regulations are to provide for registration and licensing of production, food processing and other establishments dealing with aquatic animals, to provide for aquatic animal health matters relating to production, marketing and imports and to provide for disease management controls.

[A detailed summary of the proposed legislation is set out in]

Combined, the legislation aims to define an integrated regulatory approach to implementing international standards in a manner that is capable of delivering:

- high standards of national food safety, animal and plant health for fisheries and aquaculture;
- compliance or equivalence with the requirements of international export markets;
- a harmonized approach that will facilitate intra-regional trade; and
- efficient regulatory controls, which ensures food safety / SPS compliance while enabling operators to work in a competitive environment, without unnecessary regulatory, administrative and technical burdens.

Consultation questions

[The consultation questions will be specific to national circumstances. Attention should be paid in particular to Criterion 5 in the guidelines in Annex 5, referring to the burden of consultations. Questions which have been largely resolved through earlier consultations or policy processes should not be repeated. Questions where there is realistically little room for the government to move should also be avoided. Space can be provided at the end for general comments].

How to contribute to this consultation

[Provide the date by which responses must be received. Enter details here of the methods for providing consultation responses, and any contact / access details, e.g. email or website addresses, mailing addresses, etc. If there are to be any stakeholder meetings or events, and the dates and venues are known, these could be listed. Refer to the guidelines in Annex 5 (in particular, Criterion 4) for guidance on accessibility of consultations].

³ *[Note that the Bill does not affect which agency acts as the competent authority respectively for food safety, animal health and plant health].*

Responding to the consultation

[Briefly describe how the government proposes to respond: e.g.

Within 4 weeks of the final contribution date, the government will respond to the consultation. A report containing a summary of the responses, and the government's observations and conclusions on them, will be published on the [Department] website].

Consultation Criteria

[Preferably, the general consultation criteria / principles should be set out in an Appendix at the end of the document. Refer to Annex 5 for a description of the criteria, and guidance on how they may be presented].

1C | Drafting Instructions Template

General guidance on preparing drafting instructions is set out in Part 3 of the main document. It is important to recall that there may be specific guidance or protocols (and templates) in place at the national level and/or there may be standard approaches or precedents at the Departmental level. Such guidance may relate to structure and/or style. Specific guidance may indicate whether draft clauses are acceptable or whether the instructions should be provided in narrative form only (see the template for further discussion on this).

Introduction

1. The Minister of [Agriculture/Fisheries] proposes to introduce new legislation to strengthen national sanitary and phytosanitary controls in the fisheries sector. The new legislation is based on CARICOM model legislation.
2. These Drafting Instructions [have been approved by the Minister] and [by Cabinet] (Cabinet Submission [date/reference]). The Cabinet Conclusion is attached [as Appendix 1].
3. [It is often useful to outline the structure of the document. Supplementary information should be supplied in Appendices. Copies of the CARICOM Model Legislation and associated national legislation should be provided in the Appendices, or electronically.]

Objectives and Rationale

4. The overall intention of the new legislation is to establish controls to ensure compliance with national and international food safety and agricultural health rules and standards on board fishing vessels and in relation to fisheries and other aquatic products. Current legislation in this area is outdated and neither meets current international standards for food safety and agricultural health nor enables [Country name] to meet the import requirements of countries the private sector wishes to export to.
5. These drafting instructions cover three proposed pieces of legislation:
Aquatic Animal and Aquatic Products Hygiene Bill. This Bill [supplements/ amends] existing food safety and animal health legislation⁴ to provide for certain regulatory and enforcement powers of the Fisheries Department and competent authorities dealing with food safety, animal health and plant health as regards aquatic animals and aquatic products (including aquatic plants and aquatic food products) and to provide for certain aquatic animal health matters relating to production, exports and imports.
Fish Hygiene Licensing and Inspection Regulations. These Regulations are to be made under [refer either to relevant Act / a regulatory-making power to be included in the new Bill: see para. x of the instructions].⁵ The purposes of the Regulations are to provide for the licensing of fishing vessels for the purposes of food safety control and to provide for the general standards and requirements for food safety controls in the design and operation of fishing vessels.
Aquatic Animal Health Regulations. The Regulations are made under [insert national provision, equivalent to clause 54 of the CARICOM Model Animal Health Bill]. The purposes of the Regulations are to provide for registration and licensing of production, food processing and other establishments dealing with aquatic animals, to provide for aquatic animal health matters relating to production, marketing and imports and to provide for disease management controls.

⁴ [The titles of the legislation could be provided; the description of the legislation is provided in the following section].

⁵ [Note that the Regulations could be made using powers in existing legislation or under new national provisions equivalent to either clause 54 of the Model Aquatic Animal and Aquatic Products Bill or clause 62 of the CARICOM Model Food Safety Bill].

6. The new legislation is necessary to support the fisheries and aquaculture sectors in maintaining and developing international fisheries trade. The development, and even maintenance, of international markets for fisheries products raises significant challenges. The regulatory requirements imposed in export markets are in continual development, driven by changing AHFS risks (including as a result of environmental and climate impacts); increasing knowledge about AHFS risks; increasing technological advances both in relation to detection and management; increasing food safety awareness amongst consumers; and changing regulatory requirements (in particular, that more and more countries are extending their application of international AHFS standards).
7. Combined, the legislation aims to define an integrated regulatory approach to implementing the international Standards in a manner that is capable of delivering:
 - high standards of national food safety, animal and plant health for fisheries and aquaculture;
 - compliance or equivalence with the requirements of international export markets;
 - a harmonized approach that will facilitate intra-regional trade; and
 - efficient regulatory controls, which ensures agricultural health and food safety (AHFS) compliance while enabling operators to work in a competitive environment, without unnecessary regulatory, administrative and technical burdens.

Current legislation

[The current legal framework should be described, noting any general deficiencies and noting the elements (or equivalents) to be retained. How the new legislation fits into existing legislation should also be explained. The nature and extent of this section will depend very much on the relationship between current legislation and the proposed legislation, in particular whether the new legislation replace previous legislation or will amend it. With respect to Regulations, the regulatory-making power under which the Regulations are to be made (whether under existing legislation or the new Bill) must be identified.]

Specifics of the proposal

[Advice should be taken on whether draft legislation, accompanied by explanatory notes or other narrative, can be provided for the specifics of the proposal. In administrations where this is not the usual practice, the matter can be discussed with the Attorney-General's Office (or equivalent). Since the legislation is implementing CARICOM model legislation, the provision of draft legislation may be acceptable even though it is not the usual format.

The Annotated Explanatory Notes accompanying the draft model legislation has been written with the intention of being used in the drafting instructions. The Annotated Explanatory Notes will need to be adapted to the national draft legislation, and any specific national policy issues that need to be brought to the attention of legislative counsel should be added. Where narrative texts are preferred the Annotated Explanatory Notes may still be used, but these should be combined with relevant extracts from the draft / model legislation to provide a single narrative text.

In any case, it must be clear to legislative counsel what the intended purpose or effect of each provision is.]

Contact details for instructing officials

[Provide contact details. Different contacts can be provided for different aspects of the legislation].

1D | Cabinet (or Ministerial) Submission Templates

As with other documents, these templates will need to be adapted to the normal national conventions and procedures.

1 | Cabinet Submission Seeking Approval of Instruct Parliamentary Counsel

Memorandum from the Minister of [Fisheries / Agriculture]

Strengthening Food Safety and Agricultural Health Controls in the Fisheries Sector

1. Introduction

1. Honourable Colleagues, the [Ministry name, e.g. Agriculture], in close cooperation with the [Ministry/Department name(s), e.g. Fisheries], wish to introduce new legislation to update national standards and controls for agricultural health and food safety in the fisheries sector.
2. *[Refer to any previous Cabinet submissions, minutes and/or decisions that form part of the process leading to the drafting instructions].*
3. *[Refer to the documents forming the drafting instructions (e.g. annotated explanatory notes and draft clauses) which can be annexed].*

2. Background

4. Honourable Colleagues, the Department wishes to introduce new legislation to strengthen sanitary and phytosanitary controls in the fisheries sector. The new rules seek to implement at the national level CARICOM model legislation on Fish Hygiene Licensing and Inspection and Aquatic Animal Health *[describe the model legislation as adopted by CARICOM, and the dates of adoption]*. The legislation forms part of an overall package of measures *[refers to relationship to other legislation in the AHFS sector that exists or is being introduced; state whether the new legislation will amend or replace existing legislation]*.
5. *[The background to the legislation is set out in Part 1 of the Annotated Explanatory Notes, in Annex X⁶].*
6. New legislation is needed to support the fisheries sector in maintaining and developing international fisheries trade, and to provide a complete framework for agricultural health and food safety (AHFS) controls in [Country]. The development, and even maintenance, of international markets for fisheries products raises significant challenges. The regulatory requirements imposed in export markets are in continual development, driven by changing AHFS risks (including as a result of environmental and climate impacts); increasing knowledge about AHFS risks; increasing technological advances both in relation to detection and management; increasing food safety awareness amongst consumers; and moving regulatory requirements (in particular, that more and more countries are extending their application of international AHFS standards).
7. The overall intention of the new legislation is to establish controls to ensure compliance with national and international food safety and agricultural health rules and standards on board fishing vessels and in relation to fisheries and other aquatic products. Current legislation in this area is outdated and

⁶ *[According to national practice, a separate Cabinet Paper may be preferred rather than a reference to the Annex. The introductory section of the Annotated Explanatory Notes could be used for the content of such a paper].*

neither meets current international standards for food safety and agricultural health nor enables [Country] to meet the import requirements of countries the private sector wishes to export to.

8. Honourable Colleagues, [*in accordance with: refer to previous Cabinet or Ministerial submission in policy approval*] drafting instructions have been prepared for three proposed pieces of legislation:

Aquatic Animal and Aquatic Products Hygiene Bill. This Bill will [supplement/ amend] existing food safety and animal health legislation to provide for certain regulatory and enforcement powers of the Fisheries Department and competent authorities dealing with food safety, animal health and plant health as regards aquatic animals and aquatic products (including aquatic plants and aquatic food products) and to provide for certain aquatic animal health matters relating to production, exports and imports.

Fish Hygiene Licensing and Inspection Regulations. These Regulations will be made under [insert provision]. The purposes of the Regulations are to provide for the licensing of fishing vessels for the purposes of food safety control and to provide for the general standards and requirements for food safety controls in the design and operation of fishing vessels.

Aquatic Animal Health Regulations. The Regulations will be made under [insert provision]. The purposes of the Regulations are to provide for registration and licensing of production, food processing and other establishments dealing with aquatic animals, to provide for aquatic animal health matters relating to production, marketing and imports and to provide for disease management controls.

3. Consultations

[Describe here the formal consultation process undertaken, and the results and key messages. Also mention other informal consultations undertaken. The text should demonstrate stakeholder support for the new legislation but should also reference any significant doubts or concerns that have been expressed and have not been resolved (if any)].

4. Conclusions

Honourable Colleagues, the legislation represents an important opportunity to strengthen the national fisheries, food and trade sectors. The legislation will be necessary to enable [country] to meet the demands of international regulation of trade in fisheries products in years to come, and to enable our fisheries sector to grow. I seek your support, Honourable Colleagues, to endorse the development of new legislation to support the national fisheries sector.

CABINET is therefore requested to:

- A NOTE the contents of this Memorandum,
- B NOTE the drafting instructions in Annex [X],
- C AGREE to the instructing of the Attorney-General's Office to prepare the following legislation—
 - (1) Aquatic Animals and Aquatic Products Hygiene Bill;
 - (2) Aquatic Animal Health Regulations;
 - (3) Fisheries Hygiene Regulations.

[Minister] [Date]

2 | Cabinet Submission Seeking Approval of Draft Bill

Memorandum from the Minister of [Fisheries / Agriculture] Legislation Food Safety and Agricultural Health Controls in the Fisheries Sector

1. Introduction

1. Honourable Colleagues, in accordance with [*refer to Cabinet Submission seeking approval of drafting instructions*] Minister instructed the Attorney-General's Office to draft the following legislation—
 - Aquatic Animals and Aquatic Animal Products Hygiene Bill
 - Fish Hygiene Licensing and Inspection Regulations
 - Aquatic Animal Health Regulations.
2. Honourable Colleagues, the Attorney-General's Office has now drafted this legislation, and Minister seeks approval for it to be made.

2. Background

3. Honourable Colleagues will recall that the following legislation is proposed:

Aquatic Animal and Aquatic Products Hygiene Bill. This Bill will [supplement/ amend] existing food safety and animal health legislation to provide for certain regulatory and enforcement powers of the Fisheries Department and competent authorities dealing with food safety, animal health and plant health as regards aquatic animals and aquatic products (including aquatic plants and aquatic food products) and to provide for certain aquatic animal health matters relating to production, exports and imports.

Fish Hygiene Licensing and Inspection Regulations. These Regulations will be made under [insert provision]. The purposes of the Regulations are to provide for the licensing of fishing vessels for the purposes of food safety control and to provide for the general standards and requirements for food safety controls in the design and operation of fishing vessels.

Aquatic Animal Health Regulations. The Regulations will be made under [insert provision]. The purposes of the Regulations are to provide for registration and licensing of production, food processing and other establishments dealing with aquatic animals, to provide for aquatic animal health matters relating to production, marketing and imports and to provide for disease management controls.

4. The legislation is necessary to support the fisheries sector in maintaining and developing international fisheries trade, and to provide a complete framework for agricultural health and food safety (AHFS) controls in [Country]. The overall intention of the new legislation is to establish controls to ensure compliance with national and international food safety and agricultural health rules and standards on board fishing vessels and in relation to fisheries and other aquatic products. Current legislation in this area is outdated and neither meets current international standards for food safety and agricultural health nor enables [Country] to meet the import requirements of countries the private sector wishes to export to.

3. Proposed Actions

5. Honourable Colleagues are asked to authorise Minister to lay the Aquatic Animals and Aquatic Animal Products Hygiene Bill before Parliament. [*Refer to any specific additional action or procedure and/or timing issues, according to national procedure*].
6. It is intended that the—
 - a. Fish Hygiene Licensing and Inspection Regulations, and
 - b. Aquatic Animal Health Regulations,

will be made immediately upon the entry into force of the Aquatic Animals and Aquatic Animal Products Hygiene Act. These Regulations are to be made by Minister in accordance with the powers [*refer to the respective regulatory-making powers*].

4. Conclusions

Honourable Colleagues, the legislation represents an important opportunity to strengthen the national fisheries, food and trade sectors. The legislation will be necessary to enable [country] to meet the demands of international regulation of trade in fisheries products in years to come, and to enable our fisheries sector to grow. I seek your authority, Honourable Colleagues, to introduce the Aquatic Animals and Aquatic Products Hygiene Bill to Parliament and your approval to make the implementing Regulations.

CABINET is therefore requested to:

- A NOTE** the contents of this Memorandum,
- B AUTHORISE MINISTER** to lay the following Bill before Parliament—
Aquatic Animals and Aquatic Products Hygiene Bill
- C APPROVE** the making of the following legislation immediately upon the passing of the Aquatic Animals and Aquatic Products Hygiene Bill—
Aquatic Animal Health Regulations;
Fisheries Hygiene Licensing and Inspection Regulations.

[Minister] [Date]

APPENDIX 2 | GENERIC GUIDANCE ON CABINET SUBMISSIONS

Guidance on preparing Cabinet Submissions. National guidance or departmental procedures may exist.

Proposal

State the proposal at the beginning of the paper in one or two sentences. Succinctly state what Ministers are being asked to consider or decide. Recommendations are not normally listed.

Executive Summary

An executive summary may be helpful (or required) if the paper, including appendices that must be read to understand the issues, is more than four pages long, or if the paper is particularly complex. An executive summary should be brief and succinctly explain the main issues.

Background

Background information should cover such things as:

- a brief explanation of the reasons for the paper (for example, government policy, need to respond to external factors);
- reference to previous related Cabinet or committee decisions;
- a summary of developments.

Comment

This is the main body of the paper and should provide the detail required for Ministers to understand the proposal. It should provide the essential information and argument that supports the recommendations and facilitates good decision making. Lengthy, complex and detailed arguments may not be read or understood.

The need for the proposed changes should be stated and, as appropriate, set out alternatives and arguments for and against.

Consultation

A summary of the consultations carried out should be included. This section should list the departments that were consulted. (If, in the unlikely event that at this stage a department does not concur, include a clear statement of their views.) The paper should also name any outside interest groups that were consulted, and refer to the overall conclusions of the consultations.

Where necessary, papers should also include the following sections:

Financial Implications: All papers that contain recommendations on expenditure or revenue, or that have financial, fiscal or economic implications, must describe the financial implications. Typically in this case, the paper must have been referred to the Treasury for comment and papers proposing that funding be approved must be referred to the Minister of Finance before the paper is submitted.

Legislative Implications: The legislative implications of the proposal should be stated (indicating whether a Bill or regulation is required to implement the proposal, and whether a proposed Bill has been scheduled into the legislative programme). The paper should also indicate whether consultation with the Parliamentary Counsel Office has occurred.

Regulatory Impact Analysis: National rules may apply regarding regulatory impact analysis, and information or a regulatory impact statement may need to be included in the paper.

Human Rights, Gender and Disability Perspectives: In some jurisdictions (and increasingly) Cabinet submissions are expected to include a statement on human rights and/or gender and/or disability issues.

Publicity: State whether any publicity is planned and whether or not the Minister proposes to release the paper proactively. If proposals are likely to create controversy, the paper should draw Cabinet's attention to the implications.

Recommendations

Discussions at Cabinet or Cabinet committee meeting will usually focus on the recommendations. It is, therefore, important to set out the recommendations in a logical order, and to set out clearly and unambiguously all of the decisions needed. All recommendations, including options, must be drawn together at the end of the paper, not scattered throughout the text. All important issues on which decisions are required must be included.

Each recommendation must be supported by a statement(s) in the body of the paper. Do not introduce new material or points into the recommendations. If there is a large set of recommendations, it can be helpful to use subheadings in line with the ones in the main body of the paper.

Recommendations seeking approval "in principle" should be made sparingly. The recommendation should clearly state what further work or consultation is required ("subject to") before the "in principle" decision is to come back to Cabinet for confirmation or otherwise.

While every effort should be made through consultation to produce agreed recommendations, if there are genuine differences that cannot be resolved, the paper should give clear options so that Ministers can make the final decision.

In summary, good recommendations:

- identify all of the decisions needed;
- contain a minimum of noting recommendations;
- are accurate in every detail;
- don't leave any room for doubt about what is being decided;
- make sense independently of the paper;
- present options which can assist the Minister in making a decision;
- give clear instructions on the next steps or work required, identifying who is to do the work and by when;
- rescind earlier decisions, where necessary.

Example formats for recommendations are as follows:

The Minister for x recommends that Cabinet:

- note...
- agree that...
- agree in principle, subject to the further work requested in paragraph xx below, that...
- invite the Minister for...
- approve...
- authorise...
- **EITHER** [supported by [xx] department]
agree to...
- **OR** [supported by [xx] department]
agree to...
- defer...
- decline...

- note that on [date], the [Cabinet, Committee, Office, etc.] agreed... [refer to minute];
- rescind the decision referred to in paragraph xx; and instead agree...

APPENDIX 3| BUILDING A NATIONAL VISION

Why is a “vision” needed?

A common vision, shared by all major stakeholders, at the national level is a pre-requisite to the development of policies (and legislation) aimed at the fisheries sector. There are several reasons why the development of a national vision and the elaboration of explicit objectives are essential:

- It is **indispensable support** to the political decision to develop policy.
- A shared vision entails a process which **promotes understanding** of the importance of a country’s fisheries sector, including its contribution to the blue economy, **highlights national issues** related to fisheries and fish trade and **brings together** all government administrations and all major stakeholders into a common process.
- It builds a common understanding on the **priorities for fisheries (AHFS) policy** and on the **objectives** of integrating AHFS governance and policies.

Consistent policies can be based only on **consistent visions**.

The vision underlies all fisheries sector policies and strategies (private and public). It basically expresses a political will: it defines what the country does and does not want, and which way these objectives should be pursued in the long-term. This reference should be common to all national concerned stakeholders, be they public or private.

What is a vision?

In practice, a vision is a detailed statement of objectives, priorities, principles and guidelines. It should describe the sector’s ambitions for the future (e.g. over the next 10-15 years) but must be realistic and credible (i.e. achievable, with goals consistent with current, planned and attainable resources). It is also a political document, and must motivate decision-makers to support the sector’s aims.

Although there is no single model for the development of such an integrated vision, a comprehensive vision might typically contain the following elements:

General objectives and priorities: This part represents the political element and defines a country’s main expectations and priorities related to fisheries trade/exports. Objectives might indicate an intention to develop new markets (national and/or international) for previously unexploited (or minimally traded) species; to expand access to existing and/or new export markets; to upgrade SPS capacities in the industry, etc.

Common principles and guidelines: This part of the vision is critical to support an integrated approach, which will ultimately be essential of the vision is to be successful. It comprises common principles and consistent guidelines to be implemented in the fisheries sector and each associated sectoral or thematic strategy to ensure that there are common rules and approaches when needed. Most obviously this will concern consistency with agricultural health and food safety policies and institutions, but a wider range of sectoral or thematic area need to be included.



Figure 3: Principles for a national vision

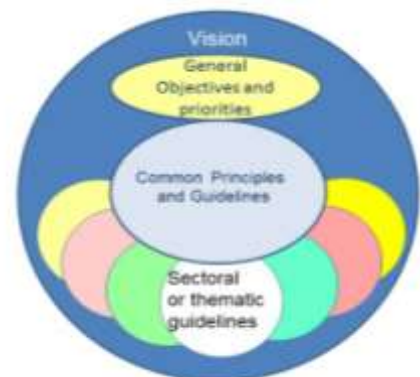


Figure 4: Integrated Vision - Overview

Sectoral and thematic guidelines: When there is a specific need for sectoral objectives, they should be included in the vision. This ensures that they will be taken into account not only in the specific sectoral strategies and policies, but also (consistently) in other sectoral strategies and policies. For example, if the national vision includes reserving maritime space for (export standard compliant) fishing areas, including spatial planning prescriptions in the vision helps to ensure that all further sectoral and space-based strategies and policies will take them into account, preventing future conflicts.

An integrated vision cannot be built just by adding independent sectoral ones: it must take into account all interrelations, be they related to maritime space, marine resources, agricultural health, food safety and production, international trade, foreign (including CARICOM) relations, etc.

Creating a national vision for the fisheries sector

The creation of a national vision for the fisheries (trade) sector entails a comprehensive and inclusive process, to be conducted amongst all concerned administrations and in partnership with the major stakeholders. It is an iterative process (the national vision should be periodically reviewed and adapted, based on a proper evaluation process) and can be developed as knowledge, capacity and ambitions develop. The national vision must be developed keeping in mind that it should be consistent with existing and future **visions at higher level**, regional or global.

There is no single approach concerning what a national vision should contain, nor a common recommended methodology as to how one should be developed. Above, it was noted that common elements included:

- **General objectives and priorities**, as the main political statement of a country's intentions and goals for the fisheries sector.
- **Common principles and guidelines**, to ensure consistency and common aims in each sectoral or thematic strategy.
- **Sectoral and thematic guidelines** where needed, to ensure sectoral objectives are consistent with the general objectives and priorities and the common principles and guidelines.

Regarding the development of a national vision, however, two principal aspects should be common to all approaches: **assessment** (e.g. of current assets, future needs, desired goals, etc.) and **consultation**, involving all major stakeholders (national and sub-national administrations and agencies, NGOs, industry, civil society groups, etc.). The processes of assessment should ideally cover all fisheries sector assets and extend to all associated sectors. The first elaboration of a national vision can be developed, however, without extensive study of all assets and without a complete prospective assessment.

Based on these principles, six stages might be recommended as essential steps to the creation of a national vision⁷:

Stage [1] Sectoral prospective. Assessments should be made in order to identify the assets of the fisheries sector and activities, potentials, risks and opportunities to elaborate desired goals. While these assessments should take account of current activities and assets, they should mainly be *prospective* (What do we want to achieve? Where do we want policy to go?, etc.).

⁷ It cannot be assumed at the start of the process that all stakeholders, assets or even sectors will be involved will be fully known to policy actors. Therefore, steps may need to be taken before commencing any process to identify and together all national administrative actors concerned; to identify the major stakeholders; and to identify the national assets and issues that currently fall outside fisheries policies.

Stage [2] Integrated prospective. The sectoral prospective should be assimilated into an “*integrated*” *prospective*, taking into account all possible interrelations, competition and synergies with other sectors (including cross-cutting sectors, such as environment and foreign relations).

Stage [3] Sectoral consultation. The result of this integrated work should be *shared with all sectoral stakeholders* (public and private, industry, citizens, experts, etc. within the fisheries, food, agriculture sectors, etc.) in order to raise awareness and produce proposals.

Stage [4] Draft vision. At this stage, it should be possible to elaborate a comprehensive *draft vision*, which should take into account the needs of the stakeholders concerned, and reflect principles of integration.

Stage [5] Consultations – external and national. The draft vision should be submitted to a *national consultation* (including not only the fisheries sector stakeholders, but the whole country at all scales from national to local) and to an *external consultation* (international organizations, neighbouring countries, etc.).

Stage [6] Adoption. After a process to review and incorporate the results of these consultations, a *final vision* can be produced and *adopted* in accordance with any applicable administrative processes (and, if appropriate, supported by a relevant instrument – see below). The vision document(s) should be disseminated amongst the stakeholders and should be launched with a public relations exercise.

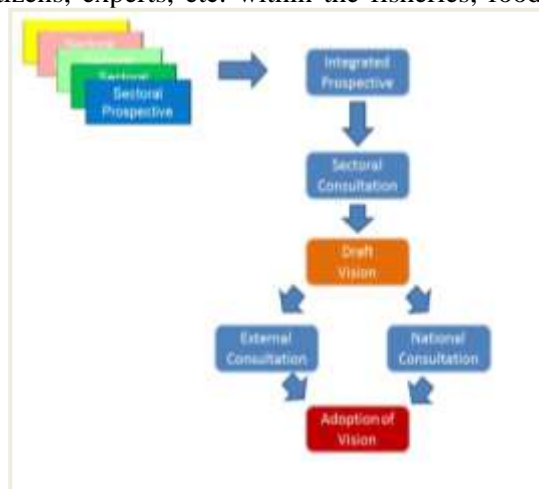


Figure 5: Developing the National Vision

Implementing the national vision

The **vision** gives only a general view of the expected results: it must then be implemented in **strategies** (a detailed list of *objectives* and sets of *indicators* to assess them), then in **policies** (*public strategies* complemented with a set of *institutional* - e.g. laws - and *operational* - e.g. agencies, funding, etc. - *prescriptions* consistent with the guidelines and adapted to the expected outcomes).

Mechanisms should be provided to ensure that the vision is implemented through all sectoral or cross-cutting policies, and that it is taken into account by all national stakeholders in their own strategies. Some mechanisms should also be established to ensure consistency in the long term with visions at higher levels (regional, global).



APPENDIX 4 | REGULATORY PRINCIPLES

Regulation may widely be defined as any government measure or intervention that seeks to change the behaviour of individuals or groups. It can both give people rights and restrict their behaviour. The areas concerned in this document – fisheries, food safety, agricultural health, public health – are typically areas that are considered to be highly regulatory: there are constant demands for more regulation to protect natural resources; fisheries, food and trade sectors; or consumers.

But where regulation is poorly designed or overly complicated it can impose excessive costs and inhibit productivity. The job of government is to get the **right balance**, providing proper protection and making sure that the impact on those being regulated is proportionate.

Politicians differ about the appropriate level of intervention, but all governments should ensure that regulations are necessary, fair, effective, affordable, and enjoy a broad degree of public confidence. To achieve this, any policy intervention, and its enforcement, should meet recognized principles of “better” regulation. These principles are applicable to the **selection, design and implementation** of regulatory instruments, and are highly relevant for the types of decisions involved in implementing model fisheries SPS legislation. The principles are also a useful toolkit for measuring and improving the quality of regulation and its enforcement, and setting the context for dialogue between stakeholders and government.

(1) Regulatory tools

Policy makers have a wide range of options available for implementing policy objectives. Each approach should be considered, rather than automatically assuming prescriptive regulation is required. The options chosen will have implications for the incentives facing stakeholders; the burdens imposed on them; levels of compliance; and ultimately the success of a policy. The unintended consequences need to be taken into account, as well as the desired outcomes.

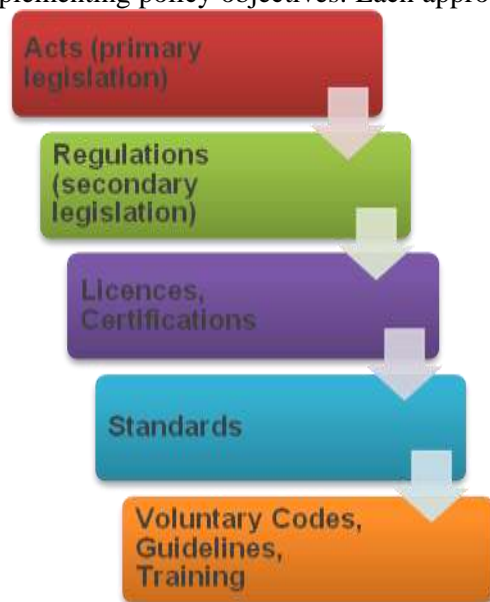
Alternative regulatory tools that could be considered include:

Advertising campaigns and education

Government can influence the behaviour of individuals and firms through information, advice and persuasion – perhaps reinforced by other incentives or penalties.

Using the market

Government can remove problems preventing markets from working effectively or can introduce a market where none exists. Often markets do not function effectively if participants do not have all the information necessary to make an informed decision. Industries can adopt codes of practice, regulating the provision of information themselves or Government can require producers of goods or services to provide relevant information or provide the information itself. This can be effective in the food sector, since consumers themselves demand safe (and increasingly sustainably and responsibly produced) food.



Self-regulation and voluntary or compulsory codes of practice

Self-regulation and voluntary codes of practice have the advantage of involving stakeholders themselves in the process of regulation, and may be cheaper and more flexible to use than government enforced rules. There are many forms of self-regulation and the level of government intervention will vary, according to the risk posed by the activity being regulated.

Prescriptive regulation

Government can prescribe the behaviour it expects from business and individuals by setting rules or standards. There are areas where this is the best means of achieving a policy objective. However, prescriptive regulation, like many other means of government intervention, may have unintended consequences, and without enforcement compliance may be limited.

It is to be recognized, however, that in the AHFS sector, and particularly in the context of international trade, the trading rules are reliant on systems of official controls, inspections and certifications. These will inevitably require prescriptive regulation to a significant extent.

(2) Regulatory principles

When designing legislation, there are **five key principles** for effective regulation:

Proportionate	regulation must be no more than is required to achieve the aim (not “too heavy” or “too light”) - it should not impose a heavy burden on competitiveness
Targeted	regulatory instruments should target a particular policy aim , and address only relevant issues and persons
Consistent	consistent in itself; consistent with other laws; capable of consistent implementation
Transparent	regulation should be open, simple and user-friendly - good regulation must be well understood and usually supported by the majority of the industry
Accountable	implementing authority should be accountable for regulations and able to justify decisions taken under them; consistent procedures are required

Figure 6 - Regulatory principles

These principles are applicable in any regulatory field, including AHFS in the fisheries sector, and are applicable to the **selection, design and implementation** of legislation.

To be most effective, it is important to ensure that the **right types** of instruments at the **right level** are selected: not all regulatory or behavioural issues will need legislation, for example – in some cases, education or communication may be sufficient (or more effective) to achieve the aim. It is also important to ensure that the chosen regulatory instrument is **properly designed** so that it creates the regulatory effect that is intended and that **stakeholders are engaged**, so as to ensure that the regulation is what is needed, is understood and is respected.

The Model Fisheries SPS Legislation includes a Bill / Act (primary legislation) and model regulations. As noted in the main document, it will be important – within the national context – to select the most effective method for organizing the legislative provisions, across primary and secondary legislation.

Attachment 1 | Policy-maker's checklist

This table sets out, against each of the five better regulation principles, what regulators should bear in mind when devising, implementing, enforcing and reviewing regulatory measures.

Proportionality	<p><i>Regulators should only intervene when and to the extent necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.</i></p> <ul style="list-style-type: none"> ▪ Policy solutions must be proportionate to the perceived problem or risk and justify the compliance costs imposed. ▪ All the options for achieving policy objectives must be considered – not just prescriptive regulation. Alternatives may be more effective (and cheaper). ▪ “Think small first”: regulation can have a disproportionate impact on SMEs and other small-scale operators (including small-scale and artisanal fishers). ▪ Enforcement regimes should be proportionate to the risk posed. An educational rather than a punitive approach should be considered where possible.
Targeted	<p><i>Regulation should be focused on the problem, and minimise side effects. Any regulatory instruments should target a particular policy aim, and address only relevant issues and persons.</i></p> <ul style="list-style-type: none"> ▪ Regulations should focus on the problem, and avoid a scattergun approach. ▪ Guidance and support should be adapted to the needs of different groups. ▪ Regulators should focus primarily on those whose activities give rise to the most serious risks. ▪ Regulations should be systematically reviewed to test whether they are still necessary and effective.
Consistency	<p><i>Government rules and standards must be joined up and implemented fairly.</i></p> <ul style="list-style-type: none"> ▪ Regulators should be consistent with each other, and work together in a joined-up way. (It is self-evident that in an inherently cross-cutting sector such as AHFS ▪ New regulations should take account of other existing or proposed regulatory measures, whether of domestic, regional (CARICOM) or international origin. ▪ Regulation should be predictable in order to give stability and certainty to those being regulated.
Transparency	<p><i>Regulators should be open, and keep regulations simple and user-friendly.</i></p> <ul style="list-style-type: none"> ▪ Policy objectives, including the need for regulation, should be clearly defined and effectively communicated to all interested parties. ▪ Effective consultation must take place before proposals are developed, to ensure that stakeholders’ views and expertise are taken into account. ▪ Stakeholders should be given sufficient time and sufficient information to respond to consultation documents. ▪ Regulations should be clear and simple, and guidance, in plain language. ▪ Those being regulated should be made aware of their obligations, with law and best practice clearly distinguished. ▪ Those being regulated should be given the time and support to comply. It may be helpful to supply examples of methods of compliance. ▪ The consequences of noncompliance should be made clear.
Accountability	<p><i>Regulators must be able to justify decisions, and be subject to public scrutiny.</i></p> <ul style="list-style-type: none"> ▪ Proposals should be published and all those affected consulted before decisions are taken. ▪ Regulators should clearly explain how and why final decisions have been reached. ▪ Regulators and enforcers should establish clear standards and criteria against which they can be judged. ▪ There should be well-publicised, accessible, fair and effective complaints and appeals procedures. ▪ Regulators and enforcers should have clear lines of accountability to Ministers; Parliaments and assemblies; and the public.

Adapted from: UK Better Regulation Task Force: Principles of Good Regulation.

Attachment 2 | Resources

- [UK Better Regulation Task Force: Principles of Good Regulation](#)
- [UK Cabinet Office: Better policy making: a guide to regulatory impact assessment](#)
- [UK Cabinet Office: Code of Practice on Written Consultation](#)

APPENDIX 5 | CONSULTATION CRITERIA

Criterion 1 When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 Duration of consultation exercises

Consultations should allow sufficient time for stakeholders to review the proposal, consult amongst each other and draw up considered responses.

Criterion 3 Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Ongoing dialogue between Government and stakeholders is an important part of policy-making. Informal consultation of interested parties is always useful, but this dialogue will, at times, need to become more formal and more public. When developing a new policy or considering a change to existing policies, processes or practices, including the introduction of new legislation, it will often be desirable to carry out a formal, time-bound, public consultation exercise. This kind of exercise should be open to anyone to respond but should be designed to seek views from those who would be affected by, or those who have a particular interest in, the new policy or change in policy.

The six consultation criteria should be applied as far as possible in any formal consultation. A brief description of how they have been applied should be included in the consultation document.

Criterion 1 When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

1.1 Formal, written, public consultation will often be an important stage in the policy-making process. Consultation makes preliminary analysis available for public scrutiny and allows additional evidence to be sought from a range of interested parties so as to inform the development of the policy or its implementation.

1.2 It is important that consultation takes place when the Government is ready to put sufficient information into the public domain to enable an effective and informed dialogue on the issues being consulted on. But equally, there is no point in consulting when everything is already settled. The consultation exercise should be scheduled as early as possible in the project plan as these factors allow.

1.3 It will often be necessary to engage in an informal dialogue with stakeholders prior to a formal consultation to obtain initial evidence and to gain an understanding of the issues that will need to be raised in the formal consultation.

1.4 Over the course of the development of some policies, the Government may decide that more than one formal consultation exercise is appropriate. When further consultation is a more detailed look at specific elements of the policy, a decision will need to be taken regarding the scale of these additional consultative activities. In most cases where additional exercises are appropriate, consultation on a more limited scale will be more appropriate.

Criterion 2 Duration of consultation exercises

Consultations should allow sufficient time for stakeholders to review the proposal, consult amongst each other and draw up considered responses.

2.1 National guidelines may specify the minimum period for formal consultations. If no guidelines are specified, consideration should be given to the length of time needed taking account of the complexity of the policy proposal and existing relations with stakeholders. Stakeholder organisations should have time to consult the people they represent or work with before drafting a response to Government and allowing a reasonable length of time will help enhance the quality of the responses.

2.2 If a consultation exercise is to take place over a period when consultees are less able to respond, e.g. over the summer or Christmas break, or if the policy under consideration is particularly complex, consideration should be given to the feasibility of allowing a longer period for the consultation.

2.3 When planning a consultation, it is important to take steps to raise awareness of the exercise among those who are likely to be interested. In particular, considerations should be given to ways to publicise consultations at the time of, or if possible before, the launch-date so that consultees can take advantage of the full consultation period to prepare considered responses.

Criterion 3 Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

3.1 Consultation exercises should be clear about the consultation process, i.e. what has taken place in the development of the policy prior to the consultation exercise, how the consultation exercise will be run and, as far as is possible, what can be expected after the consultation exercise has formally closed.

3.2 Consultation exercises should be clear about the scope of the exercise, setting out where there is room to influence policy development and what has already been decided, and so is not in the scope of the consultation.

3.3 Estimates of the costs and benefits of the policy options under consideration should normally form an integral part of consultation exercises, setting out the Government's current understanding of these costs and benefits. If any national procedures exist for the provision of impact assessments, these should normally be published alongside a formal consultation, with questions on its contents included in the body of the consultation exercise.

3.4 Consideration should also be given to asking questions about which groups or sectors would be affected by the policy in question, and about any groups or sectors (e.g. small businesses or third sector organisations) that may be disproportionately affected by the proposals as presented in the consultation document. Consultation exercises can be used to seek views on the coverage of new policies, ideas of how specific groups or sectors might be exempted from new requirements, or used to seek views on approaches to specific groups or sectors that would ensure proportionate implementation.

3.5 The subject matter, any assumptions the Government has made, and the questions in the consultation should all be as clear as possible. A mixture of open and closed questions will often be desirable, and consideration should be given to offering consultees the opportunity to express views on related issues not specifically addressed in the questions.

Criterion 4 Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

4.1 It is essential that interested parties are identified early in the process so that consultation exercises can be designed and targeted accordingly. When consultation exercises need to reach a diverse audience, different approaches may be required. In the consultation document it should be stated what ways are available for people to participate, how exactly to get involved and why any supplementary channels have been chosen. Over-reliance on standard lists of consultees to disseminate consultation papers can mean that key groups are excluded and others receive consultation documents that are not relevant to them.

4.2 As far as is possible, consultation documents should be easy to understand: they should be concise, self-contained and free of jargon. This will also help reduce the burden of consultation. While consultation exercises on technical details may need to seek input from experts, when the views of non-experts are also required, simpler documents should be produced.

4.3 It is vital to be proactive in disseminating consultation documents. Careful consideration should be given to how to alert potential consultees to the consultation exercise and how to get views from relevant sectors. While many interested parties can usually be contacted directly, there will often be other interested parties not known to Government or who can only be reached through intermediary bodies. Using specialist media or events can also help promote consultation exercises among interested groups.

Criterion 5 The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

5.1 When preparing a consultation exercise it is important to consider carefully how the burden of consultation can be minimised. While interested parties may welcome the opportunity to contribute their views or evidence, they will not welcome being asked the same questions time and time again. If the Government has previously obtained relevant information from the same audience, consideration should be given as to whether this information could be reused to inform the policymaking process, e.g. is the information still relevant and were all interested groups canvassed? Details of how any such information was gained should be clearly stated so that consultees can comment on the existing information or contribute further to this evidence-base.

5.2 If some of the information that the Government is looking for is already in the public domain through market research, surveys, position papers, etc., it should be considered how this can be used to inform the consultation exercise and thereby reduce the burden of consultation.

5.3 Consultation exercises should enable consultees to respond through the convenient channels. Allowing consultees to answer questions directly online or by email can help reduce the burden of consultation for those with the technology to participate. However, other consultees may find it easier to respond through community or other meetings, or through intermediaries such as industry groups or civil society organisations. All views should be recorded in writing.

Criterion 6 Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

6.1 All responses (both written responses and those fed in through other channels such as discussion forums and public meetings) should be analysed carefully, using the expertise, experiences and views of respondents to develop a more effective and efficient policy. The focus should be on the evidence given by consultees to back up their arguments. Analysing consultation responses is primarily a qualitative rather than a quantitative exercise.

6.2 In order to ensure that responses are analysed correctly, it is important to understand who different bodies represent, and how the response has been pulled together, e.g. whether the views of members of a representative body were sought prior to drafting the response.

6.3 Following a consultation exercise, the Government should provide a summary of who responded to the consultation exercise and a summary of the views expressed to each question. A summary of any other significant comments should also be provided. This feedback should normally set out what decisions have been taken in light of what was learnt from the consultation exercise. Those who have participated in a consultation exercise should normally be alerted to the publication of this information.

6.4 Consideration should be given to publishing the individual responses received to consultation exercises.

The CRFM is an inter-governmental organization whose mission is to “Promote and facilitate the responsible utilization of the region’s fisheries and other aquatic resources for the economic and social benefits of the current and future population of the region”. The CRFM consists of three bodies – the Ministerial Council, the Caribbean Fisheries Forum and the CRFM Secretariat.

CRFM members are Anguilla, Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago and the Turks and Caicos Islands.

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