AGREEMENT ESTABLISHING THE CARIBBEAN REGIONAL FISHERIES MECHANISM

THE STATES PARTIES,

Convinced *of the need to promote sustainable use of the living marine and other aquatic resources by the development, efficient management and conservation of such resources;*

Convinced further *of the intrinsic and non-extractive value and interdependence of the living marine and other aquatic resources;*

Acknowledging *that under international law, coastal States have sovereign rights for the purpose of exploring, exploiting, conserving and managing the living and non-living resources of their exclusive economic zones and their fisheries zones;*

Conscious *that certain of the living marine resources which are of interest to the peoples of the Caribbean Region are highly migratory, straddle national boundaries and are harvested by third States;*

Recognising *that the unsustainable exploitation of the living marine and other aquatic resources can lead to irreparable damage to those resources;*

Noting *that there are international institutions, bodies and competent organisations, the policies and programmes of which may be relevant to the living marine and other aquatic resources of interest to Member States;*

Recognising further *the need for co-operation and consultation among all the States Parties to this Agreement, third States, interested international institutions and bodies involved in fisheries in the Caribbean Region;*

Recognising also *the need of the States Parties for specific assistance including financial, scientific and technological assistance in the area of fisheries management, development, conservation and sustainable use;*

Aware *of the relevant provisions of the Third United Nations Convention on the Law of the Sea (1982); the FAO Code of Conduct for Responsible Fisheries (1995); the Agreement to promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993); the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks (1995); Sustainable Development of the Programme of Action for Small*

Island Developing States (1994), and the Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean (1990);

Noting further *Resolution 54/225 of the United Nations General Assembly, dated 15 February 2000 on Promoting an Integrated Management Approach to the Caribbean Sea area in the context of sustainable development;*

Convinced *that this Agreement will serve to enhance co-operation in the area of fisheries among States Parties and interested third parties, thereby contributing to the general well-being of the peoples of the Caribbean Region;*

Bearing in mind *the Revised Treaty of Chaguaramas (2001) Establishing the Caribbean Community including the CARICOM Single Market and Economy,*

Have agreed *as follows:*

Article 1
Use of Terms

In this Agreement, unless the context otherwise requires:

"the Caribbean Community" *(hereinafter referred to as "CARICOM") means the organisation established by the Treaty of Chaguaramas and the Protocols thereto:*

"the Caribbean Fisheries Forum" *means the organ established by Article 6(b) of this Agreement;*

"competent organisations" *means any group or body formed by two or more States in a co-operative arrangement for the sustainable use of shared, straddling or highly migratory stocks or of a particular specie of marine or other aquatic resources and recognised as such by other States, fishers of the same stock or specie;*

"the Ministerial Council" *means the organ established by Article 6(a) of this Agreement;*

"the Mechanism" *means the Caribbean Regional Fisheries Mechanism established by Article 2 of this Agreement;*

"the Secretary-General" *means the Secretary-General of CARICOM;*

"the Caribbean Technical Fisheries Unit" *(hereinafter referred to as "**the Technical Unit**") means the organ established by Article 6(c) of this Agreement.*

Article 2
Establishment

1. *There is hereby established the Caribbean Regional Fisheries Mechanism (hereinafter referred to as "the Mechanism").*

2. *The Headquarters of the Mechanism shall be located in Belize.*

3. *The Mechanism shall establish elsewhere within the CARICOM Region such other offices as may be considered necessary for the performance of its functions.*

4. *The Mechanism shall conclude a Headquarters Agreement with the Government of Belize setting out the privileges and immunities to be recognised and granted by the Government of Belize.*

Article 3
Membership

1. *Membership of the Mechanism shall be open to Member States and Associate Members of CARICOM.*

2. *The Ministerial Council may admit as an Associate Member of the Mechanism any State or Territory of the Caribbean Region which in its opinion is able and willing to discharge its obligations under this Agreement.*

3. *States mentioned in paragraph 1 of this Article which have signed this Agreement in accordance with Article 35 or acceded to it in accordance with Article 38 shall become Members of the Mechanism.*

4. States or Territories mentioned in paragraph 2 of this Article which have concluded an association agreement with the Mechanism shall become Associate Members of the Mechanism.

Article 4

<u>Objectives of the Mechanism</u>

The Mechanism shall have as its objectives;

(a) the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of Member States;

(b) the promotion and establishment of co-operative arrangements among interested States for the efficient management of shared, straddling or highly migratory marine and other aquatic resources;

(c) the provision of technical advisory and consultative services to fisheries divisions of Member States in the development, management and conservation of their marine and other aquatic resources.

Article 5

<u>General Principles</u>

In pursuance of its objectives, the Mechanism shall be guided by the following principles:

(a) maintaining bio-diversity in the marine environment using the best available scientific approaches to management;

(b) managing fishing capacity and fishing methods so as to facilitate resource sustainability;

(c) encouraging the use of precautionary approaches to sustainable use and management of fisheries resources;

(d) promoting awareness of responsible fisheries exploitation through education and training;

(e) according due recognition to the contribution of small scale and industrial fisheries to employment, income and food security, nationally and regionally, and

(f) promoting aquaculture as a means of enhancing employment opportunities and food security, nationally and regionally.

Article 6

Organs of the Mechanism

The Mechanism shall be composed of:

(a) the Ministerial Council;

(b) the Caribbean Fisheries Forum (hereinafter called "the Forum");

(c) the Technical Unit.

Article 7

The Ministerial Council

1. Each Member of the Mechanism shall nominate a Minister of Fisheries to represent it on the Ministerial Council and such representative shall have one vote.

2. The Ministerial Council shall meet in regular session once a year and in such special sessions as may be necessary to perform its functions.

3. The Ministerial Council shall determine the policy of the Mechanism. In particular, the Ministerial Council shall:

(a) promote the efficient management, conservation and development of shared, straddling and highly migratory marine and other aquatic resources of the

Caribbean Region through attainment of competence over the resources and through co-operation with competent organisations as the case may be;

(b) develop and maintain relations with national, sub-regional and regional institutions and bodies and international institutions and organisations the work of which have an impact on the fisheries within the Region;

(c) promote and facilitate human resource training and development in the fisheries sub-sector at the professional, technical and vocational levels in Member States;

(d) promote and support programmes designed to establish, facilitate and strengthen fisheries research, including the acquisition and sharing of relevant data in Member States;

(e) promote and encourage technical co-operation in the fisheries sub-sector, including technology transfer, information exchange and networking among States of the Caribbean Region and beyond;

(f) encourage co-operation among the Member States in order to avoid disputes or to resolve them in a peaceful manner;

(g) support efforts aimed at ensuring safe, healthy and fair working and living conditions for fishers and fish workers;

(h) consider the annual reports and make decisions in response to recommendations and requests from the Forum;

(i) approve the Budget, Annual Audited Accounts and Procurement Procedures of the Mechanism and Strategic Plan and Work Programme of the Technical Unit;

(j) appoint the Director and Deputy Director of the Technical Unit;

(k) receive and consider policy proposals from the Forum;

(l) approve co-operative arrangements proposed by the Forum;

(m) approve recommendations for States or Territories to be admitted as Associate Members;

(n) approve recommendations for groups, institutions and bodies whose work contribute to the work of the Mechanism to be admitted to the Forum, as Observers;

(o) review the work of the Technical Unit;

(p) submit annual reports to the Council for Trade and Economic Development (COTED) and the Council for Foreign and Community Relations (COFCOR).

4. Subject to the provisions of this Article and Article 18, the Ministerial Council shall determine its own rules of procedure.

Article 8

<u>Composition of the Forum</u>

1. The Forum shall comprise:

(a) one representative of each Member of the Mechanism;

(b) one representative of each Associate Member of the Mechanism;

(c) representatives of the following groups, institutions and bodies, approved by the Ministerial Council as Observers:

(d) Fisher Folk Organisations and Private Fishing Companies within the Caribbean Region;

(e) Regional bodies and institutions and regional organisations whose work in the area of fisheries contribute to the work of the Mechanism;

(f) Non-Governmental Organisations whose work in the area of fisheries contribute to the work of the Mechanism.

2. The Forum shall elect a chairman from among the Members of the Mechanism and, subject to this Agreement, shall establish its own rules of procedure.

Article 9

<u>Functions of the Forum</u>

1. Subject to paragraph 3 of Article 7, the Forum shall determine the technical and scientific work of the Mechanism and, in particular, the Forum shall:

(a) promote the protection and rehabilitation of fisheries habitats and the environment generally;

(b) encourage the use of post-harvest practices in the fisheries sub-sector that maintain the nutritional value and quality of products;

(c) encourage the establishment of effective mechanisms for monitoring, control and surveillance of fisheries exploitation;

(d) recommend for approval by the Ministerial Council, arrangements for sustainable fisheries management and development in Member States based upon the best available technical or scientific data and information;

(e) recommend for approval by the Ministerial Council, co-operative and other arrangements relating to fisheries;

(f) review the arrangements recommended by the Technical Unit for sustainable fisheries management and development in Member States;

(g) examine and consider action taken by Member States and third States which may prejudice arrangements for sustainable fisheries management and development;

(h) receive reports on new arrangements made between Member States and third States with respect to the conservation and management of fisheries;

(i) receive reports on such activities as may from time to time be entrusted to sub-committees or interest groups of the Forum;

(j) receive and examine the draft Work Plan and Budget of the Mechanism and submit recommendations thereon to the Ministerial Council;

(k) determine from time to time the priorities for the Work Programme of the Mechanism;

(l) approve the staff regulations recommended by the Technical Unit;

(m) undertake such other functions as from time to time may be entrusted to it by the Ministerial Council.

2. The Forum shall convene in regular sessions once a year and in such special sessions as it considers necessary to perform its functions.

Article 10

<u>The Executive Committee</u>

1. There shall be established at the first regular session of the Forum an Executive Committee of the Forum which shall comprise [seven] Members, of whom [five] shall be Members of the Mechanism and two (2) Associate Members.

2. The Director of the Technical Unit shall be an ex-officio Member of the Executive Committee.

3. The members of the Executive Committee shall be elected annually. The Chairman of the Executive Committee shall be elected from among the Members of the Mechanism.

4. Decisions of the Executive Committee shall be reached by a majority of the Members present and voting. In the event of a tie, the Chairman shall exercise a casting vote.

5. The Executive Committee shall function as necessary between meetings of the Forum using, as appropriate, modern communication facilities, and shall keep the Forum

informed of its activities.

Article 11
Sub-Committees of the Forum

1. *The Forum may establish such Sub-Committees as may be considered necessary for the fulfillment of its functions.*

2. *Such Sub-Committees may comprise representatives of Member States, Associate Members and interest groups whose activities within the Caribbean Region are of interest to the Mechanism.*

3. *Sub-Committees so formed shall determine their own method of work and shall keep the Forum informed of their activities.*

Article 12
Composition of the Technical Unit

1. *The Technical Unit shall be the permanent Secretariat of the Mechanism and shall be adequately provided with the managerial, technical, scientific and support staff to enable it to discharge the mandate of the Mechanism.*

2. *The Technical Unit shall comprise a Director, a Deputy Director and such other technical and administrative staff as may be necessary for the fulfillment of the functions of the Mechanism.*

3. *The Director shall be the Chief Executive Officer of the Mechanism and shall exercise full responsibility for all aspects of the work of the Mechanism.*

4. *The Director shall be appointed by the Ministerial Council on the recommendation of the Forum and shall serve for a period of three years and be eligible for reappointment.*

5. *The Director shall report annually to the Ministerial Council on the work of the Mechanism.*

6. The Director shall be assisted by a Deputy Director who shall also be appointed by the Ministerial Council on the recommendation of the Forum.

7. The other staff of the Technical Unit shall be appointed by the Director.

8. In the appointment of the staff of the Technical Unit, due consideration shall be given to the principle of equitable geographical representation.

9. The officials of the Technical Unit shall enjoy the status of international public servants whose loyalty shall be to the Mechanism. Members and Associate Members of the Mechanism undertake to respect the status of the officials of the Technical Unit.

Article 13
Functions of the Technical Unit

In the discharge of its functions, the Technical Unit shall:

(a) provide technical, consultative and advisory services to Member States in the development, assessment, management and conservation of marine and other aquatic resources and, on request, in the discharge of any obligations arising from bilateral and other international instruments;

(b) support and enhance the institutional capacity of Member States in fisheries' areas such as:

- *(i) policy formulation;*
- *(ii) economics and planning;*
- *(iii) registration and licensing systems;*
- *(iv) information management;*
- *(v) resource monitoring, assessment and management;*
- *(vi) education and awareness building;*
- *(vii) harvest and post-harvest technologies;*

(c) encourage, support and, as appropriate, provide effective regional representation at relevant international fora;

(d) collect and provide relevant data on fisheries resources, including sharing, pooling and information exchange;

(e) promote the conduct of trade in fish and fish products according to applicable agreements;

(f) act as the central co-ordinating body for the Mechanism;

(g) serve as the Secretariat to the Ministerial Council and the Forum;

(h) collaborate with national fisheries authorities;

(i) formulate the Work Programme, prepare and submit the Budget of the Mechanism to the Forum;

(j) implement the Work Programme recommended by the Forum and approved by the Ministerial Council, including the preparation of such technical and scientific papers as may be required;

(k) provide management and development advice and assistance, particularly in the areas of co-ordination, communication and technical scientific operations;

(l) establish, in consultation with the Member States, and where appropriate and approved by the Ministerial Council, a network of relationships comprising non-CARICOM States as well as CARICOM and non-CARICOM organisations, bodies and institutions whose work and interest coincide with that of the Mechanism;

(m) develop projects for execution both in the Member States and regionally;

(n) seek and mobilise financial and other resources in support of the functions of the Mechanism;

(o) represent the Mechanism or, at the request of any Member State or group of Member States, represent them at meetings of international bodies and organisations which are concerned with fisheries in the Caribbean and whose objectives and activities coincide with those of the Mechanism;

(p) receive applications for Associate Membership or Observer Status and make recommendations in respect of such applications to the Forum;

(q) address urgent or ad hoc requests outside of the regular Work Programme presented by Member States;

(r) collaborate with the Executive Committee between meetings of the Forum in the execution of its functions;

(s) recommend to the Forum the staff regulations of the Mechanism.

Article 14

Decision-Making

1. Every Member of the Mechanism shall have one vote in its deliberative organs. Every Associate Member shall have one vote in respect of matters for which it is eligible to vote.

2. Unless otherwise provided, decisions of the deliberative organs of the Mechanism shall be reached by consensus. In the absence of consensus decisions shall be deemed adopted, if supported by a qualified majority of three-quarters (¾) of the Member States comprising the Mechanism.

3. The quorum of the Ministerial Council shall be formed by two-thirds (•) of its Members. The quorum of the Forum shall be formed by two-thirds (•) of its Members and must include at least two-thirds (•) of the Member States of the Mechanism. The quorum of the Executive Committee shall be formed by at least three (3) / five (5) of the Member States of the Mechanism.

4. The Member States may vote in any organ or sub-committee of the Mechanism. Associate Members may participate in discussions in the Forum and its Sub-Committees but are eligible to vote only where decisions are being taken on management regimes to which they are parties or concerning fisheries which they share with other Member States.

5. *Observers shall not have the right to vote at meetings of any of the organs comprising the Mechanism.*

6. *A Member State or Associate Member which is absent from a meeting of any organ or body of the Mechanism and is prejudiced by a decision taken at that meeting shall have the right to request a review of the decision, and the organ or body which took that decision shall review it.*

Article 15
Financing of the Mechanism

1. *Member States and Associate Members shall pay such annual contributions as are agreed by the Ministerial Council.*

2. *Observers shall pay such subscriptions as are levied from time to time for attendance at particular meetings of an organ of the Mechanism or at meetings of a Sub-Committee of the Mechanism.*

3. *Where a Member State is in arrears with its contribution and as a consequence thereof the Mechanism obtains overdraft facilities, the Member State in arrears shall bear the cost of the provision of such facilities.*

4. *The Technical Unit shall prepare annual accounts which shall be audited by the Auditors appointed by the Director of the Unit.*

5. *The Report of the Auditors shall be submitted to the Ministerial Council (MC) for consideration and approval.*

Article 15(bis)
The Reserve Fund

1. *The Mechanism shall establish a Reserve Fund along the lines set out in this Article.*

2. The resources of the Reserve Fund shall consist of the following:

(a) grants from international donors and sponsors of the Mechanism;

(b) grants from Member States and Associate Members;

(c) grants from entities, public and private, which are not sponsors of the Mechanism;

(d) unspent balances from the regular budgets of the Mechanism;

(e) revenues derived from the operations of the Mechanism;

(f) income from investments of the Mechanism.

3. The resources of the Reserve Fund shall be used to finance as required the regular and capital budgets of the Mechanism.

4. Withdrawal of resources from the Reserve Fund shall require the prior authorisation of the Ministerial Council.

5. The resources of the Reserve Fund shall be held in such liquid form as the Ministerial Council may determine, provided that whenever it is in the interest of the Mechanism, the resources of the Reserve Fund may be invested in the securities of the Region.

6. Investments mentioned in paragraph 5 shall be made by the Director of the Unit with the approval of the Ministerial Council.

7. The finances of the Reserve Fund shall be audited annually by the auditors appointed by the Director of the Technical Unit (TU) to audit its accounts. The Report of the Auditors shall be submitted to the Ministerial Council for consideration and approval.

Article 16
The Budget

1. *The Budget of the Mechanism shall be prepared by the Technical Unit and presented to the Ministerial Council for approval after examination and recommendation by the Forum.*

2. *The Budget shall be so prepared as to ensure financing of the Work Programme of the Technical Unit.*

3. *The Budget shall be approved by consensus, failing which it shall be approved by a qualified majority of three-quarters (¾) of the Members of the Mechanism.*

4. *The regular Budget shall comprise:*

   (a) annual contributions from Member States and Associate Members;

   (b) contributions from co-operating partners or other contributors;

   (c) grant funds received from regional and international donor agencies;

   (d) funds paid by donor agencies to the Mechanism for project execution services provided by the Mechanism with respect to projects financed by the donor agencies;

   (e) earnings above cost for special services provided by the Mechanism to commercial operators in the fishing industry and to other bodies;

   (f) income derived from the sale or the licensing of intellectual property created and owned by the Mechanism;

   (g) any other source of funding.

Article 17

Provisional Budgetary Measures

1. The Mechanism is authorised to commit provisionally and pending approval of the Budget, expenditure not exceeding one-fifth (1/5) of the regular Budget for the previous year.

2. The Mechanism is also authorised to obtain overdraft facilities to this end.

Article 18

Sanctions for Non-Payment of Contributions

1. Subject to paragraph 2, a Member State whose contributions to the regular Budget of the Mechanism is in arrears for more than two years, shall not have the right to vote.

2. In exceptional circumstances to be determined by the Ministerial Council, a defaulting Member State may be permitted to vote pending the payment of its arrears of contributions.

Article 19

Status, Privileges and Immunities

Member States shall accord to the Mechanism within their jurisdictions, the status, immunities, exemptions and privileges set out in Articles 20 to 27 in order to enable it to effectively fulfill its objectives and carry out the functions entrusted to it.

Article 20

Legal Status of the Mechanism

1. The Mechanism shall possess full juridical personality and, in particular, full capacity to:

(a) contract;

(b) acquire and dispose of moveable and immoveable property;

(c) institute legal proceedings.

2. The Mechanism may enter into agreements with Member States, third States and other international organisations for the achievement of its objectives.

3. In any legal proceedings, the Mechanism shall be represented by the Director.

Article 21

Legal Process

1. The Mechanism shall be immune from every form of legal process, except in cases arising out of or in connection with the purchase of land, securities or merchantable commodities, in which cases actions may be brought against the Mechanism in a court of competent jurisdiction in the Territory of a Member State in which the Mechanism has an office or in a third State where the Mechanism has appointed an agent for the purpose of accepting service or notice of process.

2. Notwithstanding the provisions of paragraph 1, no action shall be brought against the Mechanism by a Member State or any agency thereof, or by any entity or person directly or indirectly acting for or deriving claims from a Member State. Member States shall have recourse to such special procedures for the settlement of disputes between the Mechanism and its Member States as may be provided for in this Agreement.

3. The Mechanism, its property and assets wheresoever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before delivery of final judgment against the Mechanism.

4. Nothing in this Agreement shall be construed as disentitling a person aggrieved by a motor vehicle accident from instituting legal proceedings against the Mechanism, its officials, representatives or experts.

Article 22

Immunity of Assets and Archives

1. Property and assets of the Mechanism, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

2. The archives of the Mechanism and, in general, all documents belonging to or held by the Mechanism, shall be inviolable, wherever located.

Article 23

Freedom of Assets from Restrictions

To the extent necessary to achieve the objectives and perform the functions of the Mechanism effectively, and subject to the provisions of the Agreement, the Mechanism:

(a) may hold assets of any kind and operate accounts in any currency;

(b) shall be free to transfer its assets from one country to another or within any country, and to convert any currency held by it into any other currency, without being restricted by financial controls, regulations or moratoria of any kind.

Article 24

Privilege for Communications

Official communications of the Mechanism shall be accorded by each Member State, treatment not less favourable than it accords to the official communications of any similar inter-governmental organisation.

Article 25

Privileges and Immunities of Mechanism Personnel

1. Members and Advisers of the Ministerial Council and the Forum, Officials of the Mechanism and Experts performing missions for the Mechanism:

(a) shall be immune from legal process in respect of acts performed by them in their official capacity;

(b) shall, unless they are nationals, be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations as are not less favourable than those accorded by Member States concerned to the representatives, officials and experts of comparable rank of any other Member State;

(c) shall be granted such repatriation facilities in time of international crisis as are not less favourable than those accorded by the Member States concerned to the representatives, officials and experts of comparable rank of any other Member State.

2. The Director shall notify Member States of the Officials and Experts to be accorded the immunities in paragraph 1.

Article 26

Exemption from Taxation

1. The Mechanism, its assets, property, income, operations and transactions shall be exempt from all direct taxation and from all customs duties on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Mechanism shall not claim exemption from taxes which are no more than charges for public utility services.

3. The Mechanism will not normally claim exemption from excise duties and from taxes on the sale of moveable and immoveable property which form part of the price to be paid.

Nevertheless, where the Mechanism is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States shall, whenever possible, make appropriate administrative arrangements for the remission or the return of the amount of duty or tax.

4. *Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 3, shall not be sold in the territory of the Member State granting the exemption, remission or retrieve except under conditions agreed with the Member State.*

5. *No tax shall be levied on or in respect of salaries and emoluments paid by the Mechanism to the Directors, officials or experts performing missions for the Mechanism. However, Member States reserve the right to tax their own citizens, nationals or persons permanently resident in the territories of such Member States.*

Article 27
Waiver of Immunities, Exemptions and Privileges

1. *The exemptions, immunities and privileges provided in Articles 21-27 are granted in the interest of the Mechanism. The Council may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in the said Articles in cases where such action would, in its opinion, be appropriate in the best interest of the Mechanism.*

2. *The Director shall have the right and duty to waive any immunity, exemption or privilege in respect of any official or expert performing a mission for the Mechanism where, in his opinion, the immunity, exemption or privilege would impede the course of justice and could be waived without prejudice to the interests of the Mechanism.*

3. *In similar circumstances and under the same conditions, the Ministerial Council shall have the right and duty to waive any immunity, exemption or privilege in respect of the Director.*

Article 28

Implementation

Every Member State shall take appropriate steps to make the provisions of Articles 21 - 27 effective within its jurisdiction and shall inform the Mechanism promptly.

Article 29

Questions of Interpretations and Application

1. *Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Ministerial Council for decision.*

2. *In any case where the Ministerial Council has given a decision under paragraph 1 of this Article, any Member State may require that the question be referred to an arbitral tribunal whose decision shall be final. Pending the decision of the arbitral tribunal, the Mechanism, as it considers necessary, may act on the basis of the decision of the Ministerial Council.*

Article 30

Constitution of Arbitral Tribunal

1. *Each Party to a dispute shall be entitled to appoint one arbitrator. The two arbitrators chosen by the parties shall be appointed within fifteen days following the decision to refer the matter to arbitration. The two arbitrators shall, within fifteen days following the date of their appointments, appoint a third arbitrator who shall be the Chairman. As far as practicable, the arbitrators shall not be nationals of any of the parties to the dispute.*

2. *Where either party to the dispute fails to appoint its arbitrator under paragraph 1, the Secretary-General shall appoint the arbitrator within ten days. Where the arbitrators fail to appoint a Chairman within the time prescribed, the Secretary-General shall appoint a Chairman within ten days.*

3. *Where more than two Member States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed within fifteen days following the decision to refer the matter to arbitration and the two arbitrators shall within fifteen days of their appointment appoint a third arbitrator who shall be the Chairman.*

4. *Where no agreement is reached under paragraph 3, the Secretary-General shall make the appointment within ten days and where the arbitrators fail to appoint a Chairman within the time prescribed the Secretary-General shall make the appointment within ten days.*

5. *Notwithstanding paragraphs 1, 2, 3 and 4, Parties to a dispute may refer the matter to arbitration and consent to the Secretary-General appointing a sole arbitrator who shall not be a national of a party to the dispute.*

Article 31
Rules of Procedure of Arbitral Tribunal

1. *Subject to the relevant provisions of this Agreement, the Arbitral Tribunal shall establish its own rules of procedure.*

2. *The procedures shall assure a right to at least one hearing before the Arbitral Tribunal as well as the opportunity to provide initial and rebuttal written submissions.*

3. *The Arbitral Tribunal's hearings, deliberations and initial report, and all written submissions to and communications with the Arbitral Tribunal, shall be confidential.*

4. *The Arbitral Tribunal may invite any Member State to submit views orally or in writing.*

5. *The award of the Arbitral Tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based.*

6. *Where the parties cannot agree on the interpretation or implementation of the award, either party may apply to the Arbitral Tribunal for a ruling within thirty days of the award. The term of the Arbitral Tribunal shall come to an end unless an application for a ruling has been received, in which case it shall continue for such reasonable time, not*

exceeding thirty days, as may be required to make the ruling.

7. *Decisions of the Arbitral Tribunal shall be taken by a majority vote of its members and shall be final and binding on the Parties to the dispute.*

Article 32
Third Party Intervention

A Member State which is not a party to a dispute, on delivery of a notification to the parties to a dispute and to the Secretary-General, shall be entitled to attend all hearings and to receive written submissions of the parties to a dispute and may be permitted to make oral or written submissions to the Arbitral Tribunal.

Article 33
Additional Information from Experts

Where proceedings have commenced, the Arbitral Tribunal may, on its own initiative or on the request of a party to the dispute, seek information and technical advice from any expert or body that it considers appropriate, provided that the parties to the dispute so agree and subject to such terms and conditions as the parties may agree.

Article 34
Expenses of Arbitral Tribunal

1. *The expenses of the Arbitral Tribunal, including the fees and subsistence allowances of arbitrators and experts engaged for the purposes of a dispute, shall be borne equally by the Member States Parties to the dispute unless the Arbitral Tribunal, taking into account the circumstances of the case, otherwise determines.*

2. *Where a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.*

Article 35

Entry Into Force

This Agreement shall enter into force upon the signature by any [7] of the States mentioned in paragraph 1 of Article 3.

Article 36

Accession

1. Any country to which paragraph 1 of Article 3 applies may accede to this Agreement.

2. Instruments of Accession shall be deposited with the Secretary-General.

Article 37

Associate Membership

1. Any State or Territory mentioned in paragraph 2 of Article 3 may, upon application to the Forum for associate membership, be admitted as an Associate Member of the Mechanism in accordance with paragraph 2 of this Article.

2. Upon an application made pursuant to paragraph 1 of this Article, the Ministerial Council shall make a determination on the application. When the determination is in the affirmative, the Ministerial Council shall determine the conditions of associate membership.

Article 38

Registration

This Agreement and any amendments thereto shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

Article 39

Withdrawal

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

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

Article 40

Implementation

The Contracting Parties shall take all necessary action, whether of a legislative, executive or administrative nature, for the purpose of giving effect to this Agreement. Such action shall be taken as expeditiously as possible, and the Director shall be informed accordingly.

IN WITNESS WHEREOF *the undersigned duly authorised in that behalf by their respective Governments have executed this Agreement.*

DONE *at _____ on the _____ day of_____ 2002.*

Signed by

for the Government of Antigua and Barbuda on the day of 2002 at

Signed by

for the Government of The Bahamas on the day of 2002 at

Signed by

for the Government of Barbados on the day of 2002 at

Signed by

for the Government of Belize on the day of 2002 at

Signed by

for the Government of the Commonwealth of Dominica on the day of 2002 at

Signed by

for the Government of Grenada on the day of 2002 at

Signed by

for the Government of the Co-operative Republic of Guyana on the day of 2002 at

Signed by

for the Government of Jamaica on the day of 2002 at

Signed by

for the Government of Montserrat on the day of 2002 at

Signed by

for the

Government of St. Kitts and Nevis on the day of 2002 at

Signed by

for the Government of Saint Lucia on the day of 2002 at

Signed by

for the Government of St. Vincent and the Grenadines on the day of 2002 at

Signed by

for the Government of The Republic of Suriname on the day of

2002 at

Signed by

for the Government of The Republic of Trinidad and Tobago on the day of

2002 at

Signed by

for the Government of Anguilla on the day of

2003 at

Signed by

for the Government of British Virgin Islands on the day of

2003 at

Signed by

for the Government of Haiti on the day of

2003 at

Signed by

for the Government of Turks and Caicos Islands on the day of

2003 at

Participating Member States of the Caribbean Regional Fisheries Mechanism as at February 2002 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
British Virgin Islands
Turks and Caicos Island