

October 12, 2006

Draft Agreement Establishing the Common Fisheries Policy and Regime

Preamble

The Participating States to This Agreement,

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

Mindful of the relevant provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS); the 1990 Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean; the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the 1994 Barbados Programme of Action for the Sustainable Development of Small Island Developing States (BPoA) [**Check to see if there is an update coming out of the Mauritius Meeting in 2004/2005 as well as the Johannesburg Plan of Implementation**]; the 1995 Food and Agriculture Organisation of the United Nations (FAO) Code of Conduct for Responsible Fisheries; the Convention on Biological Diversity and the 1995 United Nations Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;

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

Conscious also that some species of marine and other living aquatic resources within the jurisdiction of Member States are overexploited whereas others are underexploited or unexploited, and are therefore not making optimum contribution to the social and economic development of the *Caribbean Community* (“*the Community*”) established by Article 2 of the

2002 Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the Single Market and Economy (the Revised Treaty of Chaguaramas);

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

Noting that the provisions of the Revised Treaty of Chaguaramas regarding the principles of non-discrimination and most favoured nation treatment, the right of establishment, the right to provide services, the right to move capital in the Community and the right of movement of Community nationals are applicable to nationals of the Community connected to fisheries and aquaculture;

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

Further Noting that Article 4(a) of the 2002 Agreement Establishing The Caribbean Regional Fisheries Mechanism (“CRFM Agreement”) focuses on the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of Member States:

Determined to ensure the long-term sustainable use and conservation of the living aquatic resources within the jurisdiction of Member States;

Recalling Resolution 59/230 of the United Nations General Assembly on promoting an integrated management approach to the Caribbean Sea area in the context of sustainable development and being ***convinced that*** the concept of the Caribbean Sea as a special area for sustainable development can, *inter alia*, be given effect through a Common Fisheries Policy and Regime;

Have agreed as follows:

1.0 Definitions

1.1 For the purpose of this Agreement Establishing the Common Fisheries Policy and Regime the following definitions shall apply:

- (a) ‘access agreement’ means an agreement between one Participating State or several Participating States [or the Implementing Agency] and a Third State or Third States to exploit the fishery resources of a Participating State or Participating States, or a Third State or Third States;
- (b) ‘aquaculture’ means all activities aimed at producing in restricted areas, processing and marketing aquatic plants and animals from fresh, brackish or salt waters;
- (c) ‘close season’ means a defined period of time within which fishing of a species or group of species is prohibited
- (d) ‘common fisheries zone’ means the waters as defined in Section 5.1;
- (e) ‘conservation’ means the sustainable use that safeguards ecological processes and genetic diversity for present and future generations;
- (f) ‘ecosystem-based approach’ means taking account of species interactions and the interdependence between species and their habitat when making decisions;
- (g) ‘fish’ means any aquatic plant or animal or parts thereof, and includes eggs, larvae and all juvenile stages;
- (h) ‘fisheries management plans’ means specific arrangements aimed at controlling and regulating the exploitation of living aquatic resources;

- (i) 'Fisheries resources' includes all the fishable resources, natural and cultured in the inland and internal waters, territorial seas and archipelagic waters of Participating States and the common fisheries zone;
- (j) 'fishing' means catching, taking or harvesting fish or aquatic flora or attempting to catch, take or harvest fish or aquatic flora or any operation at sea, on a lake or river, in connection with, or in preparation for, catching, taking or harvesting fish or aquatic flora, including placing, searching for or retrieving any fish aggregating device and searching for fish or flora;
- (k) 'fishing effort' means the level of fishing, as may be defined, *inter alia*, by the number of fishing vessels, number of fishers, amount of fishing gear, and the time spent on fishing or searching for fish;
- (l) 'fishing vessel' means any vessel, boat, ship or other craft, which is used for, equipped to be used for or of a type that is normally used for fishing or related activities, and all its equipment;
- (m) 'Implementing Agency' means the Caribbean Regional Fisheries Mechanism;
- (n) 'limit reference points' means values of fish stock population parameters such as biomass or fishing mortality rate), which should be avoided because they are associated with unknown population dynamics, stock collapse or impaired recruitment;
- (o) 'living aquatic resources' means available and accessible living marine, brackish water and freshwater aquatic species;
- (p) 'open season' means a defined period of time within which fishing of a species or group of species is permitted
- (q) 'Participating State' means a State that is a signatory to this Agreement;
- (r) 'precautionary approach to fisheries management' means, *inter alia*, that the absence of adequate scientific information should not be used as a reason for

postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;

- (s) ‘safe biological limits’ means indicators of the state of a stock or of its exploitation inside which there is a low risk of transgressing certain limit reference points;
- (t) ‘Secretary-General’ means the Secretary-General of the Caribbean Community established by Article 2 of the Revised Treaty of Chaguaramas;
- (u) ‘stock’ means a living aquatic resource that occurs in a given management area;
- (v) ‘sustainable exploitation’ means the exploitation of living aquatic resources in such a way that future exploitation will not be prejudiced and not have a negative impact on the marine ecosystems;
- (w) ‘Third States’ means states which are not Participating States.

2.0 Vision, Goals and Objectives

2.1 *Vision:*

Participating States cooperating and collaborating in the conservation, management and sustainable utilization of the living aquatic resources and related ecosystems of the Caribbean Region

2.2 *Goal:*

Establish a common fisheries policy and regime within the context of the Revised Treaty of Chaguaramas, for the conservation, sustainable utilization, development, management of living aquatic resources and related ecosystems, and competitive trade to maximize the present and future social and economic benefits to the people of the Participating States.

2.3 Objectives:

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

- (a) To use fisheries resources to improve income and employment opportunities, alleviate poverty and to provide food security and nutrition in the Participating States;
- (b) To transform the fisheries sector towards market oriented, internationally competitive and environmentally sustainable harvesting, production of fish and fishery products;
- (c) To increase production and diversification of primary fish production and value-added, processed fishery products;
- (d) To set out harmonized measures and operating procedures for fisheries management, trade in fish and fishery products, fish quality assurance and the administration of the fishing industry within the context of the Revised Treaty of Chaguaramas and other international agreements;
- (e) To build institutional capabilities of Participating States to, *inter alia*, conduct research, collect and analyse data, improve networking and collaboration among Participating States, formulate and implement policies, and make decisions ;
- (f) To provide guidance to Participating States, *inter alia*, on the delimitation of maritime boundaries, the safeguarding of the marine environment from pollutants and hazardous waste and disaster preparedness for the fishing industry;

- (g) To promote research to facilitate decision-making regarding the sustainable use, management and conservation of the living aquatic resources including aquaculture.
- (h) To promote the development of sustainable aquaculture, including mariculture in the region as a means of improving food security, alleviate poverty, increase employment opportunities and export earnings;
- (i) To establish and maintain an effective monitoring, control and surveillance programme for enforcing fishing management measures;
- (j) To establish and maintain an effective sanitary and phytosanitary regime for the fishing industries of Participating States.

3.0 Fundamental Principles

3.1 The following fundamental principles shall guide the application of the Common Fisheries Policy and Regime:

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

- (e) Protection of biodiversity, fragile ecosystem and critical fisheries habitats in the marine environment and rehabilitation where necessary;
- (f) Use of best practices in the harvesting, handling and processing of fish and fishery products in order to maintain their nutritional value, quality and safety, reduce waste and minimize the impact on the environment;
- (g) Collaboration and co-operation with Regional and International Agencies on fisheries matters in the best interest of the Participating States;
- (h) Inclusion of stakeholders in all aspects of fisheries management, planning and development;
- (i) Resolution of disputes in a peaceful and timely manner;
- (j) Promotion of an ecosystems-approach to the management and conservation of fisheries resources;
- (k) Promotion of good governance of fisheries through transparency and accountability;
- (l) Commitment to the collection, pooling, and sharing of data and information, and the dissemination thereof in a timely manner ;
- (m) Trade in fish and fishery products according to agreed standards;
- (n) Management of fishing capacity and fishing methods to ensure resource sustainability and protection of the ecosystem;
- (o) Integration of fisheries into coastal area planning and management to ensure that the needs of coastal communities are met;
- (p) Promotion and expansion of aquaculture production as an alternative means of, *inter alia*, improving food and nutrition security, income and employment opportunities, and poverty alleviation;

- (q) Eradication of the use of destructive fishing gear and method, and illegal, unreported and unregulated fishing ;
- (r) Clear definition of responsibilities at the National and Regional levels.

3.2 Participating States shall take all appropriate measures, whether general or particular, to secure fulfillment of the obligations arising out of this Agreement or resulting from actions taken by the Implementing Agency. Participating States shall abstain from any measures which could jeopardise the attainment of the objectives of this Agreement.

4.0 Scope of Policies

4.1. The scope of the policy shall extend to conservation, management, and use of all fish species and all other living aquatic resources, including the production, processing, marketing and trading of fishery and aquaculture products, where such activities are practised in the territory of Participating States or in waters under the jurisdiction of Participating States or by fishing vessels of Participating States or nationals of Participating States, bearing in mind the provisions of Section 2 of Part VII of the United Nations Convention on the Law of the Sea, without prejudice to the primary responsibility of the flag State.] (COMMENT: A decision has to be made whether the Common Fisheries Policy and Regime ought to extend to all the fishing/aquaculture activities or to be restricted to activities associated with the Common Fisheries Zone as recently requested by Barbados)

5.0 The Common Fisheries Zone

5.1 Without prejudice to delimitations of their maritime boundaries, Participating States hereby establish a Common Fisheries Zone, which shall be the waters under their jurisdiction beyond the twelve mile territorial limit.

6.0 Access to fisheries resources

Basis for access by Participating and Third States:

Subject to the Revised Treaty of Chaguaramas as well as the 1982 United Nations Convention on the Law of the Sea (UNCLOS), access by Participating States and Third States to fisheries resources within the sovereignty or jurisdiction of Participating States shall be as follows:

6.1 Participating States

In their territorial waters:

- (a) Participating States shall have absolute authority to restrict fishing to fishing vessels that traditionally fish in those waters, without prejudice to such arrangements that may exist between neighbouring or other Participating States for access to and management of fisheries resources and subject to such conservation measures as may be adopted from time to time by the Implementing Agency.
- (b) Participating States shall determine the status of their stock or fisheries resources in their territorial waters and, in the event of surplus, may allocate licences to such other Participating State or Third State, in harmony with their respective management plan.

In the Common Fishing Zone:

- (c) The Implementing Agency working in collaboration with Participating States and competent regional, and international agencies and organizations, shall, prior to allowing access to the resources, determine the status of the fishery resources and

establish conservation and management measures, in accordance with the fundamental principles set out in this Agreement.

- (d) Fishing vessels of Participating States shall have conditional access to waters and resources in the Common Fisheries Zone, subject to such conservation measures as may be adopted from time to time by the Implementing Agency.
- (e) Participating States shall be authorised to fish in the Common Fisheries Zone for fish species or groups of species which have been determined by the Implementing Agency to be underexploited or un-exploited or where there is a surplus.
- (f) The total catch shall not exceed the total allowable catch established for the target fish species or groups of species.
- (g) Within the Common Fisheries Zone, fishing of species or groups of species which, on the basis of the best available scientific information, have been determined by the Implementing Agency to be fully or over-exploited, shall be restricted to the particular Participating State under whose jurisdiction those resources lie, subject to any management measures that may be applicable to the area.
- (h) Participating States, Third States, entities and individuals fishing in the Common Fisheries Zone shall comply with such conservation measures and other terms and conditions established by the Implementing Agency.
- (i) Fishermen of Participating States who have traditionally fished in their EEZ which is now part of the Common Fisheries Zone shall continue fishing without a licence issued by the Implementing Agency until such time as the status of the target fishery has been determined.]

6.2 Third States

- (a) Access to the Common Fisheries Zone by a Third State shall be:
 - (i) allowed only after the status of the target species or groups of species have been determined, and the total allowable catch and other management and conservation measures established;
 - (ii) by written access agreement between the Implementing Agency and the Third State and a copy of such agreement deposited with the Secretary-General; and
 - (iii) by licence to vessels and personnel granted by the Implementing Agency, which shall include licence conditions for the proper management, conservation and control of the fishery.
- (b) The Implementing Agency shall ensure that all fishing vessels of a Third State seeking access to the Common Fisheries Zone shall be 51%-owned by persons of the Third State and duly registered within the said State.

6.3 Application of this section shall be deferred for [three] years from the date of entry into force of this Agreement. Notwithstanding this, if a Participating State wishes to give access at an earlier date, it is free so to do. Notwithstanding Section 6, all current fisheries agreements shall remain in force until the date of expiration.

7.0. Implementing Agency

7.1. The Implementing Agency shall be the Caribbean Regional Fisheries Mechanism (“CRFM”) with the necessary changes to the 2002 Agreement Establishing the CRFM.

7.2 Powers of the Implementing Agency

The Implementing Agency shall:

- (a) Establish and keep under review measures governing access to waters and resources and the sustainable pursuit of fishing activities within the Common Fisheries Zone;
- (b) Decide on catch and fishing effort limits, the allocation of fishing opportunities among Participating States, as well as on the conditions associated with those limits;
- (c) Keep under review the state of fishery resources, including their abundance and the level of their exploitation, as well as the state of the fisheries based thereon;
- (d) Keep under review the economic and social aspects of the fishing industry and decide any measures aimed at its development;
- (e) Adopt management plans as far as necessary to maintain stocks within safe biological limits;
- (f) Establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;
- (g) Where excess fishing capacity exists, establish mechanisms to reduce capacity to levels commensurate with the sustainable use of fisheries resources;
- (h) Encourage, coordinate and, as appropriate, adopt measures for the development of human resources in all aspects of fisheries to meet the objectives of the Common Fisheries Policy and Regime;

- (i) Encourage, recommend, coordinate and, as appropriate, undertake research and development activities;
- (j) Assemble, publish or disseminate information regarding exploitable living aquatic resources and fisheries based on these resources;
- (k) Promote, establish and maintain strategies and programmes for the responsible development and management of freshwater, marine and brackish water aquaculture and coastal fisheries enhancement;
- (l) Establish a fishing fleet register containing the information that it receives from Participating States regarding the fishing vessels under their jurisdiction or flying their flag;
- (m) Adopt appropriate measures to ensure the right of consumers to safe, wholesome and unadulterated fish and fishery products;
- (n) Establish and maintain effective safety and quality assurance systems to protect consumer health and prevent commercial fraud;
- (o) Set minimum standards for safety and quality assurance and ensure that these standards are effectively applied by the Participating States;
- (p) Adopt measures to promote and facilitate the production of value-added products by Participating States;
- (q) Create new fishing opportunities for fishing vessels of Participating States through, inter alia, the negotiation of fishing access agreements with Third States, and adoption of measures to facilitate and encourage vessels of Participating States to take advantage of high seas fishing opportunities;

- (r) Represent the interest of the Region and Participating States at regional and international fisheries fora;
- (s) Mobilize technical and financial resources, in collaboration with multi-lateral and bi-lateral donor agencies, to promote and enhance the research, administrative and management capacities of Participating States and regional fisheries institutions;
- (t) Adopt sanctions to encourage compliance with the provisions of the Common Fisheries Policy and Regime;
- (u) Delegate powers for the efficient and effective execution of its responsibilities;
- (v) Develop protocols in consultation with the Participating States to provide for the governance and operation of the Common Fisheries Policy and Regime;
- (w) Encourage, co-ordinate and adopt measures for the development and regulation of sport and recreational fisheries, and the aquarium fisheries sub-sectors;
- (x) Adopt measures to prevent living aquatic species that are at risk from being extirpated or becoming extinct, including making provisions for the recovery of such species that are extirpated, endangered or threatened as a result of human activity; and managing species of special concern to prevent them from becoming endangered or threatened by coordinating: (i) the preparation and adoption of recovery strategies and the preparation and implementation of action plans, and (ii) the activities of the Participating States relating to the protection of species at risk;
- (y) Do such other acts and things as are necessary for the effective implementation of the Common Fisheries Policy and Regime.

7.3 Membership in the Implementing Agency

Membership shall be open to:

- (a) Signatories to this Agreement; or
- (b) Any other State or Territory of the Caribbean Region that is willing to exercise the rights and assume the obligations of membership and are accepted as members by the Participating States

8.0 Management of the use of Fisheries Resources

8.1 The Implementing Agency and Participating States shall make decisions in developing harmonized fisheries management and development strategies. To this end, the Implementing Agency shall:

- (i) Adopt and apply appropriate harmonized fisheries management tools and approaches as follows:
 - (a) Participating States and the Implementing Agency shall, as far as possible, develop and implement management, conservation and recovery plans specific to the fishery which would include appropriate harmonized fisheries management strategies including but not limited to:
 1. allowable catches and quota systems;
 2. closed seasons and closed areas;
 3. minimum size of species that may be caught or landed ;
 4. control of fishing effort;
 5. the use of licences specific to the fishery.

- (b) Participating States shall adopt fisheries management plans as far as necessary to maintain stocks within safe biological limits for the respective fisheries.
 - (c) Management plans shall be drawn up on the basis of the ecosystems-based approach and precautionary approach to fisheries management and take account of any limit reference points recommended by relevant scientific bodies.
 - (d) Participating States shall undertake to adopt immediate preventative measures if there is evidence of a risk that fishing activities could lead to a serious threat to conservation of fisheries resources or degradation of the essential fish habitat;
 - (e) Where Participating States fail to take such preventative measures, the Implementing Agency shall have the power so to do;
 - (f) Where Participating States take action to manage, or rehabilitate their fisheries, they should notify the Implementing Agency within a timely manner.
- (ii) Conduct monitoring, control and surveillance of all aspects of fisheries operations, including the establishment of vessel monitoring systems, and programs to secure the elimination, deterrence and prevention of illegal, unreported and unregulated fishing.

As deemed necessary by the Implementing Agency, Participating States shall:

- (a) monitor, control and survey their maritime space and, where possible, cooperate in monitoring, controlling and surveying contiguous space in order to eliminate, deter and prevent illegal, unreported and unregulated fishing;
 - (b) establish an appropriate vessel monitoring system to monitor the position and activity of their vessels;
 - (c) adopt port and “at sea” inspection schemes;
 - (d) take inspection and enforcement measures necessary to ensure compliance with the rules of the Common Fisheries Policy and Regime; and
 - (e) In conformity with their national law, ensure that appropriate and effective measures are taken against violators of the Common Fisheries Policy and Regime and measures developed thereunder by the Implementing Agency to manage, conserve, protect and ensure the orderly development and control of the fisheries of Participating States.
- (iii) Mitigate the impact of global warming, climate and sea level rise, and other environmental changes on the fisheries sector by, *inter alia*, establishing appropriate monitoring, research and education programmes, and management response plans and adaptation strategies;
- (iv) Cooperate with relevant Regional Fisheries Management Organisations in the management of shared, straddling and highly migratory resources.

9.0 **Data Collection and Research**

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

- (a) facilitate research into and comprehensive studies of the living aquatic resources and ecosystems, marine and freshwater, falling within the scope of This Agreement, including the effects of global warming and climate change, environmental, oceanographic, ecological, biological, social and economic factors;
- (b) compile data on the status of and changes in population of fresh water and marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- (c) ensure the acquisition of catch, effort, social, economic, demographic and other relevant statistics;
- (d) establish and maintain national and regional databases containing catch and effort data on harvested populations, including licensing, registration, social, economic and other relevant data on the fishers and other resource users who depend upon or use the harvested populations.
- (e) In instances where such data and information are collected in Section 9.1 (a), (b), (c) and (d) by Participating States only, each Participating State shall make the information collected available to the Implementing Agency at least on an annual basis.
- (f) analyse, disseminate and publish the information referred to in Section 9.1 (a) (b), (c) and (d) above at least on an annual basis in accordance with agreed procedures, and in a manner consistent with any applicable confidentiality requirements;
- (g) identify and study stocks or populations of unutilized and underutilized marine living resources to determine their distribution, abundance and productivity, and sustainable harvest levels;

- (h) identify management and conservation needs and analyse the effectiveness of management and conservation measures;
- (i) formulate, adopt and revise management and conservation measures on the basis of the best scientific evidence available;
- (j) ensure national and regional capacity for addressing data collection and research needs specified in this Section.

10. Intellectual Property Rights

10.1 Ownership of intellectual property rights

All intellectual property rights in data, documents, and products developed within the context of the Common Fisheries Policy and Regime shall be owned by the Implementing Agency with a licence for use to the Participating States which compiled the same.

10.2 Confidentiality of data

The Implementing Agency and every Participating State shall maintain the confidentiality of, and refrain from using or disclosing, any confidential and proprietary information of any Participating State.

10.3 Confidentiality of individuals providing data

Participating States agree to comply with the following principles which are aimed at protecting the dignity and privacy of every individual who, in the course of research and data collection activities, provides information about himself or herself or others.

- (a) No individual shall become a subject of research unless he or she is given notice regarding the aims, methods, anticipated benefits and potential hazards of the research activities, and provides a freely-given consent that he or she agrees to participate. No pressure or inducement of any kind shall be applied to encourage an individual to become a subject of research.
- (b) The identity of individuals from whom research data or information is obtained shall be kept strictly confidential. No information revealing the identity of any individual shall be included in any report or in any other communication, unless the individual concerned has consented in writing to this inclusion beforehand.

11.0 Dissemination of Information

Subject to Section 10:

- 11.1** Participating States and the Implementing Agency shall make available, by dissemination through appropriate channels, information on proposed major programmes and their objectives as well as knowledge resulting from any form of beneficial research.
- 11.2** Participating States, both individually and in co-operation with other Participating States and with the Implementing Agency, shall actively promote the flow of all forms of relevant useful information and the transfer of knowledge resulting from research and implementation of successful management programmes especially to Participating States in need of the same.
- 11.3** Participating States shall produce and disseminate reports on their activities at regular intervals by electronic means or otherwise to the Implementing Agency and interested Participating States.
- 11.4** Without prejudice to the rights of a Participating State to resort to the procedures for the settlement of disputes provided for in this Agreement, nothing in this Agreement shall be deemed to require a Participating State, in fulfilment of its obligations under this

Agreement, to supply information the disclosure of which is contrary to the essential interests of its security.

11.5 Participating States and the Implementing Agency shall disseminate relevant information to stakeholders including but not limited to, fishermen and fish processors, to enable them to keep abreast with regional and international developments in fisheries and facilitate informed decision-making on their part.

12.0 Registration of Vessels

12.1 The fleet in Participating States should be kept in line with available resources and the Implementing Agency shall ensure that the balance is maintained at all times by requiring that:

- (a) Each Participating State shall keep a national register of fishing vessels flying its flag which shall include the minimum information on vessel characteristics and activity that is necessary for the management measures established at the Implementing Agency level.
- (b) Each Participating State shall make available to the Implementing Agency the information referred to in Section 12.1 (a).
- (c) The Implementing Agency shall set up a regional fishing fleet register containing the information that is received under Section 12.1 (b) and shall make it available to Participating States. It shall comply with the provisions regarding the protection of personal data.

12.2 A Participating State that operates an open register for fishing vessels from Third States shall, *inter alia*, comply with the following conditions pertaining to fishing vessels authorised to fly their flag, which are aimed at securing the eradication of illegal, unreported and unregulated fishing:

- (a) Ensure that there is a genuine link between the State and the vessel by, *inter alia*, effectively exercising its jurisdiction and control in administrative, technical, resource management, and social matters;
- (b) Ensure strict compliance with conservation measures, whether general or specific, arising from this Agreement or from actions of the Implementing Agencies or from competent international or regional fisheries management organisation pertaining to the target species, or area or ecosystems on which the vessel operates;
- (c) Maintain a detailed register from which the owners and operators, and a resident agent of the owner of the vessel can be readily identified;
- (d) Any vessel in violation of obligations at Section 12.2 (b) should be de-registered forthwith;
- (e) Establish and maintain vessel monitoring systems to continuously monitor the position, movement and activity of such vessels
- (f) Establish and maintain onboard observer programme to monitor the operation of such vessels and collect data and information on the catch

13.0 Marketing and trade of Fisheries Resources

13.1 Each Participating State, in collaboration with the Implementing Agency, shall:

- (a) Enact and keep updated appropriate harmonised food quality assurance legislation and policy including systems for use on fishing vessels;
- (b) Encourage market stability by appropriate means, implemented in compliance with the Region's international commitments, particularly with regard to the provisions of the World Trade Organisation;
- (c) Promote policies on the production and marketing of fishery products which take account of the need to conserve and use the resource in a sustainable manner;

- (d) Organize markets in these products which comprise such measures as will ensure that supply is better matched to demand in terms of both quality and quantity, increase the return on products, and improve the income of producers by ensuring stability of market prices;
- (e) Encourage the development and application of common marketing standards to the products concerned and keep products of unsatisfactory quality off the market;
- (f) Implement programmes to improve product quality thus make marketing easier to the benefit of both producers and consumers;
- (g) Monitor developments in internal and external markets and disseminate information to Participating States and Third States, as appropriate;
- (h) Adopt measures and programmes:
 - (i) to strengthen human resources capacities and capabilities in fish processing , quality management, and distribution and trade in fisheries products;
 - (j) to acquire, transfer and develop fish processing technologies , improve technical and economic efficiencies in the processing of fisheries products.

14.0 Links with other organizations

- 14.1 Develop strategic alliances and partnerships with relevant regional fisheries management and fisherfolk organizations, training and research institutions and donor agencies

15.0 Dispute Settlement

15.1 Adjudication

- (a) Any question of interpretation or application of the provisions of this Agreement

not otherwise expressly provided for shall be referred to an Adjudicator, appointed by the Secretary-General, within ten (10) days of receipt of a notification of a dispute. The Adjudicator shall give a decision in writing within twenty two (22) days of his appointment.

- (b) In the event that a Participating State is not in agreement with the decision made by the Adjudicator, it may give notice to the Implementing Agency that the question be referred to an Arbitral Tribunal whose decision shall be final and binding. Pending the decision of the Arbitral Tribunal, the Implementing Agency, as it considers necessary, may act on the basis of the decision of the Adjudicator.
- (c) The expenses of adjudication, including the fees and subsistence allowances of the Adjudicator and experts engaged for the purposes of dispute settlement shall be borne equally by the Parties to the dispute unless the Secretary-General, taking into account the circumstances of the case, otherwise determines. Where a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.

15.2 The Arbitral Tribunal shall be constituted as follows:

- (a) Each of the Participating States parties to a dispute shall be entitled to appoint one arbitrator from the List of Arbitrators established and maintained by the Secretary-General. 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 from the List who shall be the Chairman. As far as practicable, the arbitrators shall not be nationals of any of the parties to the dispute.
- (b) Where either party to the dispute fails to appoint its arbitrator under Section 15.2 (a) above, 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.

- (c) Where more than two Participating States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed from the List of Arbitrators 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 from the List who shall be the Chairman.
- (d) Where no agreement is reached under Section 15.2 (c) above, 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.
- (e) Notwithstanding Sections 15.2 (a) (b) ,(c)and (d) above, Participating States parties to a dispute may refer the matter to arbitration and consent to the Secretary-General appointing a sole arbitrator from the list who shall not be a national of a Party to the dispute.
- (f) The Rules of Procedure of the Arbitral Tribunal shall be as follows:
 - (i) The Arbitral Tribunal shall establish its own rules of procedure.
 - (ii) 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.
 - (iii) The Arbitral Tribunal's hearings, deliberations and initial report, and all written submissions to and communications with the Arbitral Tribunal, shall be confidential.

- (iv) 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.
- (v) 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.
- (vi) Decisions of the Arbitral Tribunal shall be taken by a majority vote of its members and shall be final and binding on the Participating States parties to the dispute.
- (g) A participating 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.
- (h) 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.
- (i) 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 Participating states parties to the dispute unless the Arbitral Tribunal, taking into account the circumstances of the case, otherwise

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

16.0 Public Awareness

16.1 The Implementing Agency and Participating States shall be committed to ensuring Public Awareness of acceptable conservation, exploitation, and management policies in relation to living aquatic resources by:

- (a) Educating Citizens especially Fishermen and Fishing Communities on methods of conserving, sustaining/ preserving its living aquatic resources and the dangers of over-exploiting them by:
 - (i) Strengthening the awareness of the benefits of sustaining living aquatic resources and the ills of ignoring to do so by documenting and ensuring dissemination of the findings to the public by way of advertising on Radio, Television, newspaper and the Internet.
 - (ii) Developing comprehensive training for persons directly or indirectly involved in the harvesting of living aquatic resources through the development of community programmes which would involve them in workshops, where the role of everyone in taking responsibility for the care and protection of the living aquatic resources of the sea is reinforced and encouraged. These programmes need to build on both Government and Non Governmental Organizations and on the active participation of all fishing communities.
 - (iii) Giving fishermen opportunities of learning from their counterparts in other territories by educational visits.

- (iv) Monitoring trends and the impact of non-adherence to sustainable methods in harvesting living aquatic resources and deciding what type of public educational programmes would be best suited for the given situation.
- (b) Rewarding communities for promoting and maintaining acceptable standards favourable to sustaining living aquatic resources.
- (c) Collaborating with educational institutions to introduce Sustainable Use of Marine and Aquatic Resources in the school curriculum.

17.0 Sanctions

17.1 State Liability

A Participating State found by a competent court or tribunal to be in sufficiently serious breach of its obligations shall be liable in damages to those directly harmed by the breach in question.

17.2 Fines

17.3 Trade Sanctions

17.4 Suspension of rights to participate in decision-making

18.0 Signature

18.1 This Agreement shall be open for signature on the _____ day of _____ 2007 by the Participating States.

19.0 Ratification

19.1 This Agreement and any amendments thereto shall be subject to ratification by Participating States in accordance with their respective constitutional procedures.

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

20.0 Entry into Force

20.1 This Agreement shall enter into force upon the deposit of seven [7] instruments of ratification by the States referred to Section 7.3 (a).

21.0 Registration

21.1 This Agreement and any amendments thereto shall be registered with the Secretary-General.

22.0 Amendments

22.1 A Participating State may, by written communication addressed to the Secretary-General, propose an amendment to this Agreement Establishing the Common Fisheries Policy and Regime.

22.2 Notice of any proposed amendment of this Agreement shall be transmitted to the Participating States by the Secretary-General not later than the time when the agenda of the meeting of the Implementing Agency at which the matter is to be considered is dispatched.

22.3 Any proposed amendment of this Agreement received by the Secretary-General from a Participating State shall be presented to a regular or special meeting of the Implementing Agency for approval and, if the amendment involves important technical changes or imposes additional obligations on the Participating States, it shall be considered by a technical advisory working group of specialists convened by the Implementing Agency prior to the regular or special session at which the proposed amendment will be considered.

22.4 Any such proposed amendment of this Agreement shall require the unanimous approval of the Ministerial Council of the Implementing Agency and shall enter into force one month after the date on which the last instrument of ratification is deposited with the Secretary-General.

22.5 A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with sections 22.3 and 22.4 shall be considered as a Party to this Agreement as so amended.

23.0 Reservations

23.1 Reservations may be entered to this Agreement with the consent of the Participating States.

24.0 Accession

24.1 Any State that is a signatory to Caribbean Regional Fisheries Mechanism Agreement may accede to this Agreement.

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

25.0 Withdrawal

25.1 A Participating State may withdraw from this Agreement by giving one year's notice in writing to the Secretary-General who shall promptly notify the other Participating States accordingly and the withdrawal shall take effect one year after the date on which the notice has been received by the Secretary-General, unless the Participating State before the withdrawal becomes effective notifies the Secretary-General in writing of the cancellation of its notice of withdrawal.

25.2 A Participating State that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Participating State; this includes any matter filed before withdrawal becomes effective.

26.0 Status of Protocols

26.1 The Protocols shall form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to any of its provisions includes a reference to the Protocols relating thereto.

27.0 Authentic text

27.1 The original of this Agreement Establishing the Common Fisheries Policy and Regime shall be deposited with the Secretary-General.

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

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