

**BRIEF ON THE AGREEMENT ESTABLISHING THE CARIBBEAN COMMUNITY COMMON
FISHERIES POLICY
June 2014**

INTRODUCTION AND BACKGROUND

1. Fish stocks and other living marine resources are renewable natural assets and a potential source of sustainable wealth for States. According to the most recent FAO report on the State of World Fisheries and Aquaculture (SOFIA) (FAO, 2014)¹, global fishery production from capture fisheries and aquaculture grew steadily from the 1950s and was 155.7 million tonnes in 2011 and 158.0 million tonnes in 2012. Since the mid 1980s growth in fish production has come largely from aquaculture which stood at 90.4 million tonnes in 2012, including 66.6 million tonnes of food fish and 23.8 million tonnes of marine algae (mostly seaweeds).

2. Although fish and seafood have long been traded internationally, trade has increased dramatically in

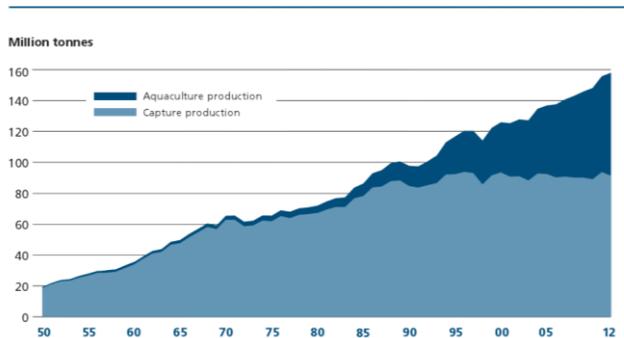


Figure 1 World Capture Fisheries and Aquaculture Production
(Source: FAO, 2014)

recent decades such that fish and fishery products now constitute the most highly traded food commodity internationally². The FAO Report on State of World Fisheries and Aquaculture goes on to say that approximately 58 million tonnes, or roughly 37% of global fisheries production in 2012, was traded, with a value of about US\$129 billion³. No less than 195 countries export part of their production and some 180

countries import fishery products. The level of trade has been growing at an accelerating pace in recent years in response to increased demand and rising production, particularly from aquaculture.

3. The fisheries and aquaculture sector makes an important contribution to the economic and social development of CARICOM/CRFM Member States⁴ in terms of food supply and food and nutrition security, employment generation, foreign currency earnings and coastal development. Fish and shellfish are harvested mainly from the coastal and marine waters of Member States, with a small but increasingly important contribution coming from aquaculture production.
4. The challenges of sustainable development in the CARICOM/CRFM States are numerous and diverse. Unemployment, underemployment, poverty, food and nutrition insecurity, poor housing and sub-standard living conditions, and inadequate access to basic services such as water, school, health care are just a few of the difficult challenges that must be addressed in order to create a more prosperous

¹ FAO. 2014. *The State of World Fisheries and Aquaculture: Opportunities and challenges*. Food and Agriculture Organization of the United Nations, Rome, 2014.

² *Trade and Fisheries: Key Issues for the World Trade Organization*. www.wto.org/english/res_e/reser_e/ersd201003_e.htm

³ *Supra* (FAO, 2014).

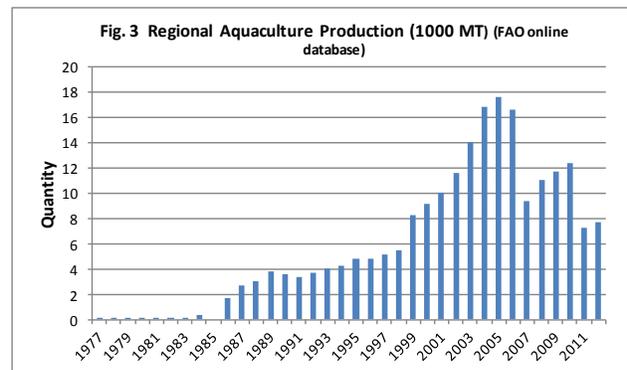
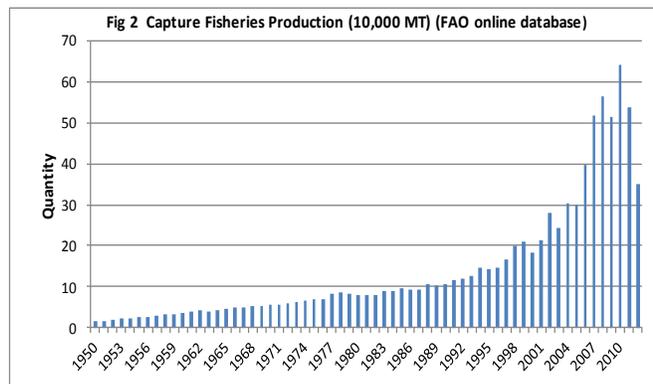
⁴ *The CRFM Member States are the 15 CARICOM Members plus Anguilla and the Turks and Caicos Islands.*

future for the people of the region. The fisheries and aquaculture sector presents real opportunities for further economic growth, wealth creation and food security through diversification, innovation, market access, conservation and regional cooperation. The contribution of fisheries to social and economic growth and development can be enhanced through appropriate policy interventions and cooperative actions by CARICOM States.

STATUS AND TREND IN CARIBBEAN FISHERIES

Production

5. According to FAO statistics total marine production from the domestic fishers and high seas fleet⁵ operating under the flags of CARICOM/CRFM States grew steadily from the 1950s reaching a peak of 643,000 tonnes in 2010 before declining to 350,000 tonnes in 2012 (Fig. 2).
6. In 2010, total fishery production from domestic fisheries⁶ in the CARICOM/CRFM countries was 161,000 tonnes⁷, of which about 149,000 tonnes came from the marine capture fisheries and 11,000 tonnes from aquaculture (Table 1). Total marine fish production from the domestic fleet shows a general upward trend since the 1950s.
7. Commercial aquaculture commenced in the region in the mid 1970s, and production increased steadily to 11,265 tonnes in 2000 and to a peak of just under 19,000 tonnes in 2004-2005 due mainly to strong growth in Belize, but since the global economic crisis, has gradually declined to 11,047 tonnes in 2010. The main producer countries are Belize and Jamaica, which have seen the development of viable commercial farming of shrimp (*Litopenaeus vannamei*) and tilapia (*Oreochromis* species and hybrids). Together these two countries account for seventy-six percent (76%) of



⁵ The high seas fleet from the region is made up largely of vessels that fly the flag of a Member State that operates open registers(flag of convenience), in particular Belize and St. Vincent and the Grenadines. These vessels operate on the high seas, that is, beyond areas of national jurisdiction.

⁶ Domestic fleet means local fishing vessels that operate from and land their catch within the territory of Member States.

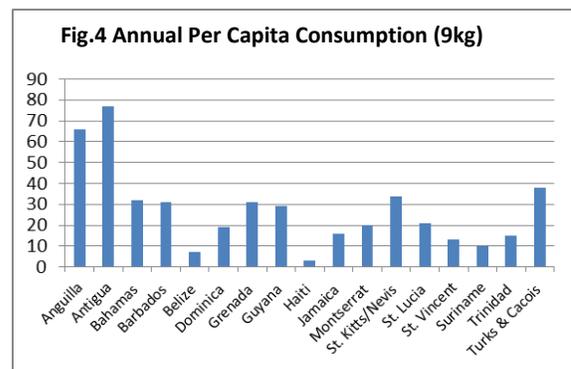
⁷ CRFM Statistics and Information Report 2009/2010. These figures represent catches by the domestic fishing fleet and do not include catches taken by vessels flying the flags of CARICOM States through open registers operated by countries such as Belize and St. Vincent and the Grenadines

production, followed by Guyana, Haiti which are beginning to show strong growth.

Member States	Marine Prod. (mt) 2008	Aquaculture Prod. (mt) 2008	Total fish prod. (mt) 2008	Marine Prod. (mt) 2009	Aquaculture Prod. (mt) 2009	Total fish production (mt) 2009	Marine Prod. (mt) 2010	Aquaculture Prod. (mt) 2010	Total fish production (mt) 2010
Anguilla	702		702	493		493	461		461
Antigua	3,521		3,521	2,490		2,490	2,293		2,293
Bahamas	9,127		9,127	9,025		9,025	11,621		11,621
Barbados	3,220		3,220	3,467		3,467	3,229		3,229
Belize	2,592	4,199	6,791	2,926	3,958	6,884	2,618	5,999	8,617
Dominica	732	17	749	686	17	703	560	17	577
Grenada	2,387		2,387	2,374		2,374	2,451		2,451
Guyana	41,366	292	41,658	42,056	292	42,348	46,040	292	46,332
Haiti	16,000	1,160	17,160	16,000	1,160	17,160	16,000	1,160	17,160
Jamaica	10,025	5,300	15,325	13,205	5,776	18,981	12,314	3,900	16,214
Montserrat	31		31	37		37	24		24
St. Kitts/Nevis	540		540	589		589	475		475
St. Lucia	1,809	1	1,810	1,857	1	1,858	1,801	7	1,808
St. Vincent	636		636	971		971	819		819
Suriname	23,449	29	23,478	25,575	35	25,610	33,842	35	33,877
Trinidad	13,830	10	13,840	13,845	10	13,855	13,845	12	13,857
Turks & Caicos	1,110	14	1,124	865	14	879	681	14	695
Totals	131,077	11,022	142,099	136,461	11,262	147,724	149,074	11,435	160,509

Fish Consumption

8. Fish plays an important role in food and nutrition security, providing a vital source of protein, minerals and micro-nutrients in the diets of Caribbean people, particularly the poor and vulnerable members of society. Annual per capita consumption of fish is high in most States, ranging from 77 kg in Antigua and Barbuda and 66 kg in Anguilla at the higher end, to 15 kg in Trinidad and

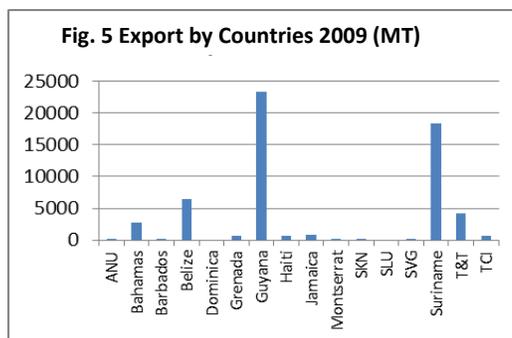


Tobago and only 3 kg in Haiti. Average per capita consumption in the CARICOM countries was approximately 30 kg per annum in 2009, based on figures compiled by the CRFM Secretariat. The Inception Report prepared by the JICA funded study to prepare a Master Plan for Coastal Fisheries

Development reported an annual per capita consumption of 32 kg in 2008⁸. These figures are well above the estimated worldwide average of 19.2 kg in 2012 reported by FAO (2014), and underscore the importance of fish and seafood in the diet of the people of the Caribbean and the consequent high demand for fish and fishery products within the region.

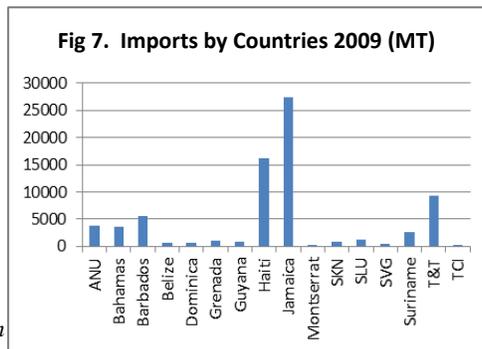
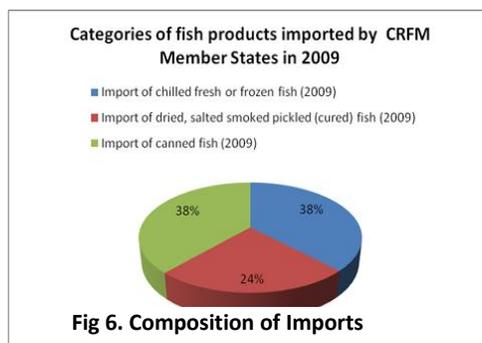
Exports

9. Domestic marine fish production includes high value, low volume species such as the Spiny Lobster (*Paulirus argus*), Queen Conch (*Strombus gigas*), various species of shrimp, snappers, groupers and tunas that are harvested mainly for export to hard currency markets primarily in the USA, Canada and the European Union.
10. The region exported 58,591 tonnes of fish and fishery products valued at US\$251,455 million in 2009⁹. The main exporters are Guyana and Suriname, which together account for about 77% of total exports. They are followed by Belize, Trinidad and Tobago, Bahamas, Jamaica and Grenada (Figure 5). Chilled, fresh, and frozen are the main export products. The North American market is the major destination for exports from the region. According to US Statistics, 30,842 tonnes of fish and fishery products valued at US\$184 million were exported from the region to the USA in 2010.



Imports

11. According to the FAO statistics, total fish imports in 2009 was 75,092 tonnes valued at US\$218,490 million. The breakdown of regional imports in terms of the different types of fishery products shows that the main items were fresh, chilled and frozen fish (38%), dried, salted, pickled and smoked fish (38%), followed by canned fish (24%) (Figure 6). The main fish importing countries are Jamaica, Haiti, Trinidad and Tobago, Barbados, Antigua and Barbuda, Bahamas and Suriname in that order (Fig. 7). High value marine species are exported to earn hard currency, whereas lower price products, such as dried, salted and canned fish are imported and traded intra-regionally for food security.



⁸ CRFM/JICA. 2009. Inception Report, Study on the Formulation of a Master Plan for Coastal Community Development in the Caribbean. CRFM. Belize City.

⁹ FAO FISAT Trade Statistics database accesses online.

DEVELOPMENT OF THE COMMON FISHERIES POLICY

Mandate

12. The Heads of Government at their Fourteenth Inter-sessional Meeting in Trinidad and Tobago, February 14-15, 2003, mandated¹⁰ the elaboration of a Common Fisheries Policy and Regime for the Caribbean Region. The Heads returned to the issued during their Fifteenth Inter-Sessional Meetings held in St. Kitts and Nevis in March 2004, and decided that such a Regime should be established even though the maritime boundaries between and among CARICOM States and CARICOM States and Third States have not been determined.
13. The decision of the Heads of Government arose after discussion on a proposal by Barbados entitled, **“Towards the Development of a Regional Fisheries Policy”** under Agenda Item B2 – Caribbean Single Market and Economy. This proposal was prepared in response to the affirmation by at least three Heads of Government (Barbados, Trinidad and Tobago and Guyana)¹¹ of the need for the development of a common fisheries regime that would allow for rational exploitation and adequate management and conservation of fisheries resources.
14. The need for a Common Fisheries Policy and Regime is based on the fact that the Caribbean Sea is a shared, ecologically interconnected large marine ecosystem with living marine resources comprised of species which inhabit the waters of several States, and in some States, other species which are dependent on or associated to those in other Caribbean States. In addition there are certain highly migratory species which are of interest to Caribbean States but which are also harvested by non-CARICOM fishers. Furthermore, CARICOM States are Small Island Developing States each with very limited capacity (human, financial, institutional) to carry out the wide range of functions necessary for sustainable use, conservation, protection and trade in fish and seafood and protection of the marine environment. Sustainable use, protection, management and conservation of such shared resources require a high level of cooperation among the States involved.
15. A Common Fisheries Policy and Regime will enable all participating States to collectively undertake the scientific research and studies necessary to determine the status of the various fish stocks and non-target species, determine available fishing opportunities, and develop rational harvest strategies and fisheries management plans to ensure optimum sustainable utilization of the stocks and protect the ecosystems, on the basis of the best scientific evidence available. In addition, the States Parties to the Policy and Regime, working together, will be better placed to coordinate their actions to effectively monitor and control access to their fishing grounds by both their vessels as well as vessels

¹⁰ See B.2.3 *Common Fisheries Regime, Report of the Fourteenth Inter-Sessional Meeting of the Conference of Heads of Government of the Caribbean Community, Reference: INS / HCG / 2003 / 14 REP*

¹¹ In July 2002, President Bharrat Jadeo, in his Opening Address to the 23rd Meeting of the Conference, Georgetown, Guyana, proposed that in the context of the Caribbean Sea as a special area, effort should be directed to “A CARICOM Fisheries Regime that would allow for rational exploitation and adequate conservation of fish stocks”. The Prime Minister of Barbados and the Prime Minister of Trinidad and Tobago at a meeting held on January 24, 2003, to discuss bilateral matters, agreed that the development of a Regional Fisheries Policy was an idea worthy of support in principle.

of Third States, and enforce such conservation and management measures as are applicable. In the same manner, States Parties will be better placed to coordinate their actions to improve welfare and working conditions of fishers, improve competitiveness, effectively develop value added products, build trade capacity and negotiate market access arrangements to expand international and regional trade in fish and seafood.

16. In summary, the fisheries and aquaculture sector can make increased contribution to the region's – social and economic growth, development and resilience, including reducing poverty, improving food and nutrition security, creating stable employment opportunities, expanding trade and increasing foreign exchange earnings. What is required is an enabling regional policy framework setting out a common vision and roadmap to transform the sector and achieve its potential.

The Revised Treaty and the Common Fisheries Policy

17. The preamble of the Revised Treaty¹² speaks to the need to promote the highest level of efficiency in the production of goods and services to maximize foreign exchange earnings, achieve food security and improve the standard of living of the people of the region. Secondly, it recognizes that optimal production by economic enterprises in the Community requires the structured integration of production in the Region, and particularly, the unrestricted movement of capital, labour and technology. Thirdly, it speaks to a resolve to establish conditions which would facilitate access by nationals of the States Parties to the collective resources of the Region on a non-discriminatory basis. Fourthly, it recognizes that a fully integrated and liberalized internal market will create favourable conditions for sustained, market-led production of goods and services on an internationally competitive basis. Article 60 of the Revised Treaty specifically provides for cooperation among States for development, management and conservation on fisheries resources. However, the Revised Treaty does not provide specific principles and rules for joint cooperation for sustainable use, conservation and management of the fisheries and protection of their ecosystems and biodiversity in the marine environment.
18. The Preamble of the Draft Agreement Establishing the Caribbean Community Common Fisheries Policy (hereinafter the Draft Agreement) makes specific reference to the Revised Treaty. It speaks of 'being guided by the Principles and Rights enunciated in the Revised Treaty'. It also notes 'the provision of Article 60 of the Revised Treaty', and speaks of a determination 'to ensure the long-term sustainable utilisation and conservation of the living aquatic resources within the jurisdictions of Participating Parties', words which are consistent with the provisions of the Revised Treaty¹³. Furthermore the stated goal of the Draft Agreement is '*to establish, within the context of the Revised*

¹² *The Revised Treaty of Chaguaramas Establishing the Caribbean Single Market and Economy (2001) (hereinafter **the Revised Treaty**)*

¹³ *See Article 60(1) Revised Treaty*

*Treaty, appropriate measures for: the conservation, management, sustainable utilisation and development of fisheries resources and related ecosystems; the building of capacity amongst fishers and the optimisation of the social and economic returns from their fisheries; and the promotion of competitive trade and stable market conditions.*¹⁴ Furthermore, the Draft Agreement expressly incorporates the dispute resolution system of the Revised Treaty to settle disputes regarding the interpretation and application of the Policy.

19. The Draft Agreement is, therefore, effectively an implementing agreement to the Revised Treaty to ensure that adequate principles and standards are established to govern sustainable use, management and conservation of fisheries and other living marine resources under the sovereignty or jurisdiction of Member States, taking into account the unique characteristics of the living marine resources and ecosystems. It will implement and give effect, in an orderly and responsible manner, to the rights and obligations arising from the Revised Treaty and other international treaties such as UNCLOS and other environmental instruments to which CARICOM Member States have already subscribed, which govern fisheries and marine environmental protection.

Process of Developing the Policy

20. Since 2003, the CRFM¹⁵ and CARICOM Secretariats have coordinated and spearheaded the preparation of the Caribbean Community Common Fisheries Policy (hereinafter the CCCFP) through a consultative process involving representatives of Member States and fishers' organizations, as well as regional experts in fisheries, regional integration, and international law.
21. The CRFM, a specialized Regional Institution, was formally established in 2003 with special responsibility for the development, management and protection of fisheries within the CARICOM Region. The Mechanism comprises three Organs. First, the Ministerial Council on which all Member States of the Mechanism are represented by Ministers of Government with responsibility for fisheries. Second, the Caribbean Fisheries Forum made up of Directors of Fisheries or Chief Fisheries Officers of the Member States, as well as, representatives of fishing interests, such as the Caribbean Network of Fisher-folk Organizations, non-governmental organisations and regional bodies and institutions whose work in fisheries contribute to the work of the Mechanism (e.g. UWI, FAO). The third organ of the Mechanism is the Secretariat, which coordinates the work of the organization.
22. Member States and stakeholders in the fisheries sector, at the technical level, represented by the Caribbean Fisheries Forum, have prepared a number of technical reports, held consultations,

¹⁴ Article 4.2 of the Draft Agreement Establishing the Caribbean Community Common Fisheries Policy

¹⁵ The CRFM is a CARICOM regional fisheries body established by the 2002 Agreement Establishing the Caribbean Regional Fisheries Mechanism, which was signed by Heads of States during the 13th Inter-Sessional Meeting of the Conference of Heads of Government of the Caribbean Community, 3-5 February 2002, Belize City, Belize

participated in regional working groups, and held formal meetings to negotiate the scope and content of the Draft Agreement establishing the CCCFP.

23. The technical work has been guided by regional policy makers, represented primarily by the CARICOM Council for Trade and Economic Development (COTED) between 2003 and 2008, and, since January 2009, the CRFM Ministerial Council (Ministers Responsible for Fisheries)¹⁶ with oversight by the COTED.
24. A comprehensive Draft Agreement on the Common Fisheries Policy and Regime was prepared and submitted to the 23rd Special Meeting of the COTED in Jamaica in October 2007 for consideration. Discussion at the meeting centered on a number of sensitive issues relating to the implementing regime, including, *inter alia*: the concept of a common fishing zone and access thereto; management of the zone; the powers of the implementing agency; and whether the Policy should include only CARICOM Member States which are parties to the Revised Treaty of Chaguaramas or to the CRFM Member States¹⁷. The COTED Requested that the CARICOM Secretariat clarify these issues by way of a legal opinion¹⁸.

Separation of Policy and Regime

25. In January 2009, the First Meeting of CRFM Ministerial Council, under the Chairmanship of the Hon. Montgomery Daniel, Minister of Agriculture, Forestry and Fisheries, St. Vincent and the Grenadines, reviewed the status of the Agreement, considered the outstanding issues and the Legal Opinion submitted by the CARICOM Secretariat.
26. The Ministerial Council decided to separate the development of the Common Fisheries Policy and the Implementing Regime and to prepare them sequentially, focusing first on elaborating the Policy, and after agreement is reached, attention would be given to elaborating the Regime through a series of protocols to the Policy.
27. The reason for this sequential approach to addressing the mandate of the Heads of Government was to overcome disagreements and delays arising from the sensitive issues regarding the regime mentioned above (see paragraph 24).

¹⁶ Between 2003 and 2008 the COTED acted as the “Ministerial Council” of the CRFM by receiving progress reports and providing guidance on the development of the CFP&R and other initiatives of the CRFM. However, in May 2008, the COTED decided that to ensure more attention and fuller discussion of fisheries matters the Ministerial Council of the CRFM should be convened to provide future policy guidance as originally envisaged by the 2002 Agreement establishing the CRFM. See page 36, Item 9 on the CRFM Work Plan and Budget, Summary of Recommendations and Conclusions of the 27th Special Meeting of the COTED (Agriculture), Georgetown, Guyana, 21 May 2008. The First Meeting of the Ministerial Council was held in January 2009.

¹⁷ CRFM Member States include the 15 CARICOM Member States plus Anguilla and the Turks and Caicos Islands.

¹⁸ See Report of the 23rd Special Meeting of the COTED, October 8-11, 2007, Jamaica.

Development of the Draft Agreement Establishing the Common Fisheries Policy

28. In keeping with the decision of the First Meeting of the CRFM Ministerial Council, the CRFM Secretariat in collaboration with the CARICOM Secretariat convened a meeting of a Multi-disciplinary Technical Working Group¹⁹ that reviewed the available documentation²⁰ and prepared a revised instrument entitled, "Draft Agreement Establishing the Caribbean Community Common Fisheries Policy," incorporating the 'policy issues' while omitting the contentious 'regime issues'.²¹
29. The "*Draft Agreement Establishing the Caribbean Community Common Fisheries Policy*" was reviewed and amended by Member States during the Fourth Special Meeting of the CRFM Forum held in Dominica on 20 April 2009²² and the First Special Meeting of the Ministerial Council of the CRFM, May 12, 2009, St. Vincent and the Grenadines. The Draft instrument was then submitted to Member States and the Twenty-Seventh Meeting of the COTED, 14-15 May 2009, Georgetown, Guyana for further consideration and guidance.

Further Comments on the Draft Agreement Establishing the CFP

30. After further review and consultations in Member States, additional comments and suggestions were submitted by the Governments of Trinidad and Tobago²³, Barbados and Suriname, and by the NGO, WIDECAST²⁴ between March – June 2010. After much discussion and limited progress in agreeing on the proposed changes requested by the Governments of Trinidad and Tobago and Barbados²⁵, the Second Special Meeting of the CRFM Ministerial Council, Castries, Saint Lucia, 28 July 2010, under the chairmanship of the Hon. Ezechiel Joseph, Minister of Agriculture, Lands, Forestry and Fisheries, Saint Lucia, considered the state of development of the Policy, and how to resolve the outstanding matters. The Council:

¹⁹ *The Working Group comprised representatives from Belize, Jamaica, St. Vincent and the Grenadines, Trinidad and Tobago. Barbados and Suriname were invited to participate but were not able to send representatives to the Meeting. The country representatives were supported by Professor Winston Anderson, from UWI and staff from the CRFM and CARICOM Secretariats.*

²⁰ *In carrying out its work of separating the policy from the regime the MTWG agreed to be guided by the following principles: (i) compliance with existing legal obligations, (ii) agreement by all Member States, (iii) the Policy would be a platform for development of the Regime, (iv) the Policy being a framework for guiding action would be at a higher level of generality as compared with the Regime which would expand the Policy and consists of detailed rules that regulate action; and (v) the normal nature of terms in a policy document.*

²¹ *See Report and Proceedings of the Caribbean Regional Fisheries Mechanism Multi-disciplinary Working Group Meeting on the Common Fisheries Policy, 31 March -1 April 2009. CRFM Management Report-PY 2009/10, CRFM Secretariat, Belize. 66p.*

²² *See Report and Proceedings of the Fourth Special Meeting of the Caribbean Fisheries Forum, Roseau, Dominica, 20 April 2009. CRFM Management Report-PY 2009/10. Vol 1-Supp.1CRFM Secretariat, Belize 67p.*

²³ *See page 10, Report and Proceedings of the Second Meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism, Suriname, 18 March 2010. Volume 1. CRFM Management Report – PY 2010 / 11. 47p.*

²⁴ *The Wider Caribbean Sea Turtle Conservation Network (WIDECAST) is an expert network of biologists, managers, community leaders and educators in more than 40 nations and territories, which is committed to an integrated, regional capacity that ensures the recovery and sustainable management of depleted sea turtle populations. Their main concern was that the issue of by-catch was not explicitly mentioned in the draft Agreement. They suggested that consideration be given in including relevant provisions of the FAO Code of Conduct on by-catch issues in the Draft Agreement.*

²⁵ *While not all the changes proposed by Barbados and Trinidad and Tobago were put to the Meeting and discussed, most of those proposals put to the meeting did not receive the support of other Member States present.*

Noted the progress that has been made regarding the development of the Common Fisheries Policy for CARICOM Member States since the mandate of the Conference of Heads of Government in 2003;

Also requested that the CRFM Secretariat and the CARICOM Secretariat convene a multi-disciplinary meeting involving representatives from Foreign Affairs, Fisheries and Legal Departments of Member States to review and expedite the preparation of the Draft Agreement on the Common Fisheries Policy;

Mandated that the Meeting be convened during the 2nd half of September 2010 hosted by the CARICOM Secretariat in Guyana to ensure maximum input of the CARISEC Legal Department;

Also agreed that the revised Draft Agreement Establishing the CFP should be completed and submitted for consideration at the regular Meeting of the Ministerial Council of the CRFM in October 2010.²⁶

Actions to address the Decisions of the Ministerial Council Meeting of 28 July 2010

31. The CRFM Secretariat, with funding provided under the EDF funded ACP Fish II Project secured the services of Christopher Headley, British Barrister and Expert in international fisheries law and Dr. Winston McCalla, Jamaican Expert in environmental law, as well as support to convene a multi-disciplinary conference involving representatives from Foreign Affairs, Fisheries Departments and Legal Departments of Member States, supported by regional organizations and stakeholder representatives including the Caribbean Network of Fisherfolk Organisation (CNFO), to review and expedite the preparation of the Draft Agreement.
32. The Multi-disciplinary Conference was held in Georgetown Guyana, 12-14 April 2011. A Revised instrument entitled "Draft Agreement establishing the Caribbean Community Common Fisheries Policy" was agreed and endorsed by the Conference.
33. The Draft Agreement was then presented to the COFCOR Officials meeting in Guyana in April 2011 and subsequently to the Ministerial Meeting held in St. Kitts and Nevis, 4 May 2011. The COFCOR, noting their responsibility for fisheries under the Revised Treaty of Charaguamas²⁷, decided that the Draft CFP Agreement should include a reporting requirement to both the COFCOR and COTED. These issues were addressed.

²⁶ See pages 6-8, CRFM Management Report – PY 2010 / 11. Volume 1 – Supplement 1. Report and Proceedings of the Second Special Meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism, St. Lucia, 28 July 2010

²⁷ See Article 60(4) Revised Treaty of Chaguaramas, 2001

ENDORSEMENT OF THE DRAFT AGREEMENT BY REGIONAL POLICY MAKERS

Endorsement by 4th CRFM Ministerial Council

34. The Draft Agreement Establishing Caribbean Community Common Fisheries Policy was considered, discussed and unanimously endorsed by the Fourth Meeting of the CRFM Ministerial Council held on May 20, 2011 in Antigua and Barbuda under the Chairmanship of Hon. Hilson Baptiste, Minister of Agriculture, Lands, Housing and Environment. The CRFM Ministerial Council also requested that the Agreement be submitted to the COTED for review and transmission to the Legal Affairs Committee and then the Conference of Heads of Government for consideration²⁸.

Endorsement by the 38th Special Meeting of COTED

35. The Draft Agreement was submitted to the 38th Special meeting of the COTED (Officials) on 12th October 2011 in Dominica during the Caribbean Week of Agriculture. The representatives of Suriname and St Vincent and the Grenadines entered reservations regarding the provisions on access to fishing resources. The representative of Suriname also entered reservation regarding the provision of Article 13(2)(d) on the establishment of a regional register of fishing vessels.
36. The COTED Minister met on 14 October 2011 in Dominica considered the issue and after much discussion, noting that the CRFM Ministerial Council had accepted the document, agreed to forward the Draft Agreement to the next meeting of the Legal Affairs Committee (Attorneys-General) for consideration. But they asked that the CRFM Secretariat followed up with Suriname and St Vincent and the Grenadines to clarify their reservations.
37. On December 2011, the Minister of Agriculture of Suriname submitted a letter to the CRFM Secretariat withdrawing the reservation entered during the 38 Special meeting of the COTED and confirming that Suriname stood by the decision of the 4th Meeting of the CRFM Ministerial Council on the Common Fisheries Policy.
38. The Government of St. Vincent and the Grenadines also informed the CRFM Secretariat, by letter dated 2 February 2012, from the Minister of Agriculture, Rural Transformation, Forestry and Fisheries that they had reviewed the Draft Agreement and were withdrawing the reservation they had lodged at the 38th Special Meeting of the COTED.

Decision of the Legal Affairs Committee

39. The Draft Agreement was submitted to the Legal Affairs Committee (LAC) of CARCOM at its 16th Meeting held in June 2012 in Trinidad and Tobago. The LAC:

²⁸ See Pages 8-9, Report of the 4th Meeting of the Ministerial Council, Vol 1, CRFM Management Report PY 2011/2012 55p.

Noted the history of the development and the consultations in respect of the draft Agreement Establishing the Caribbean Community Fisheries Policy, and in particular the decision of the COTED at its Thirty-Eighth (Special) Meeting held in Dominica on 14 October 2011; and

Agreed that Members would review the Agreement and provide the Secretariat with the comments/advise the Secretariat of their positions by 15 August 2012 with respect to approval and submission to the Conference of Heads of Government for signature.

Decisions of The 7th Meeting of the CRFM Ministerial Council

40. The 7th Meeting of the CRFM Ministerial Council returned to the status of the Draft Agreement when they met on May 31, 2013, Barbados. The Council, *inter alia*,

Called on Member States and the CARICOM Secretariat to make every effort to ensure that the Draft Agreement Establishing the Caribbean Community Common Fisheries Policy is opened for signature by the Conference of Heads of Government at their next meeting, acknowledging the need for Member States to ensure that national cabinets endorse the Policy and that Heads of State are briefed in preparation for signature; and

Agreed that further sensitization and awareness building of stakeholders and the public in respect of the objectives and benefits of the CFP was necessary at this time.

Legal Affairs Committee

41. The Agreement establishing the Common Fisheries Policy was considered at the LAC Meeting on May 29, 2013 but there was no quorum. However, at the meeting, Jamaica proposed that instead of providing for the Competent Authority to be designated or established subsequent to the entry into force of the Agreement, the CRFM should be named in the Agreement as the Competent Agency - particularly as it was not likely that CARICOM Member States would establish any new agencies in the area of fisheries.

42. The Representative of Trinidad and Tobago did not support Jamaica's proposal, pointing out that the Agreement went through lengthy negotiation and the present formulation was accepted by all States. Jamaica indicated that they were not willing to accept any text that did not preclude the establishment of a new agency, as the Government's position was that it could not sign on to anything that contemplated creating new institutional structure and thereby costs.

Decision of the 4th Special Meeting of the CRFM Ministerial Council

43. The 4th Special Meeting of the Ministerial Council revisited the status of the Draft Agreement when they met in Guyana on 10 October 2013 during the Caribbean Week of Agriculture. The Representative of Jamaica informed the meeting that the Government of Jamaica would withdraw their objection to submitting the Draft Agreement to the Heads for signature in its current form. The

Jamaica Representative also reiterated Jamaica's support for designating the CRFM as the Competent Agency to implement the Agreement. The Council, *inter alia*:

noted Jamaica's withdrawal of that country's objection to submitting the Draft Agreement to the Heads without first settling the issue of the competent agency in the interest of the policy moving ahead;

reiterated their support for the CCCFP and called on Member States to ensure that their internal consultations are expedited to facilitate this approval; and

requested that the CRFM Secretariat kept the Council Members apprised of progress in this regard.

Decision of the Special COTED, 11 October 2013

44. The Special Meeting of the COTED that was held on 11 October 2013, Turkeyen, reviewed and endorsed the decisions of the 4th Special Meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism (CRFM) which was held at the CARICOM Secretariat, Turkeyen, Greater Georgetown, Guyana, 10 October 2013, including the decisions regarding the Caribbean Community Common Fisheries Policy.

Decisions of the 18th Legal Affairs Committee, 29 Nov. 2013

45. The 18th Meeting of the Legal Affairs Committee (LAC) of CARICOM which met by videoconference on Friday 29 November 2013, agreed to recommend the Draft Agreement to the Conference of Heads of Government for signature.
46. During the Meeting, there were some queries with respect to the procedure for designating the Competent Authority to implement the Policy. The LAC agreed that, prior to the entry into force of the Agreement and a formal designation by the Parties, Members could declare their intention to designate the Caribbean Regional Fisheries Mechanism (CRFM) as the Competent Authority pursuant to Article 7.3, at the time of signing the Agreement.
47. The 18 Meeting of the Legal Affairs Committee:

Noted the status of the Final Draft Agreement Establishing the Caribbean Community Common Fisheries Policy, which was completed in 2011 pursuant to a mandate originating from the Fourteenth Inter-Sessional Meeting of the Conference of Heads of Government in Trinidad and Tobago, 14-15 February, 2003;

Also noted the concerns by Suriname in respect of the effect of certain provisions in the Agreement as well as the necessity of the dispute settlement provision;

Further noted Suriname's undertaking to submit their position on issues of concern to them by mid December 2013;

Acknowledged that, prior to the entry into force of the Agreement and a formal designation by the Parties, Members could declare their intention to designate the Caribbean Regional Fisheries Mechanism (CRFM) as the Competent Authority pursuant to Article 7.3, at the time of signing the Agreement;

Agreed to recommend the Final Draft Agreement Establishing the Caribbean Community Common Fisheries Policy for finalisation and submission to the Twenty-Fifth Meeting of the Conference, to be held in February 2014."

Twenty-Fifth Meeting of the Conference of the Heads of States

48. The Draft Agreement was opened for signature during the Twenty-Fifth Inter-Sessional Meeting of the Conference of Heads of Government of the Caribbean Community (CARICOM) held in St. Vincent and the Grenadines, from 10-11 March 2014. However, the Draft Agreement was not signed by any Member State at the Conference.

SUMMARY OF THE DRAFT AGREEMENT ON THE COMMON FISHERIES POLICY

49. The Draft Agreement contains 28 articles and lays down the objectives to be achieved, and the basic principles, standards and arrangements regarding sustainable use, trade, conservation, and management of the aquatic resources under the sovereignty or jurisdiction of Member States of the Community, in accordance with the mandate of the Conference, relevant principles from the Revised Treaty of Chaguaramas, the United Nations Convention on the Law of the Sea and associated instruments, such as the FAO Code of Conduct for Responsible Fisheries, and international best practice.
50. It is a framework agreement aimed at establishing a platform for joint actions by Member States to transform and reposition the fisheries sector to ensure a better and more secure future for present and future generations. Its overall aim is to create new opportunities for economic growth and prosperity, food security, and bring greater security and hope to the tens of thousands of people who depend upon the region's living aquatic resources for their livelihoods.
51. The Agreement is comprehensive in its scope (Article 6) covering the development and management of fisheries and aquaculture; the conservation, sustainable development and management of fisheries resources and related ecosystems; the production, processing, marketing and trading of fishery and aquaculture products; and to the welfare of fishers. It also applies to areas under the jurisdiction of Member States, on board fishing vessels flying the flag of a Member States and, subject to the

primary jurisdiction of the flag State when fishing takes place on the high seas or the coastal State when fishing takes place in the waters of a Third State, to nationals of Member States.

52. The specific objectives (Article 4.3) of the Agreement include *inter alia*: promoting the sustainable development of fishing and aquaculture as a means of increasing trade and export earnings, protecting food and nutrition security, assuring supply to Caribbean markets and improving income and employment opportunities; developing harmonised measures for sustainable fisheries management; improving the welfare and livelihoods of fishers and fishing communities; prevent, deter and eliminate illegal, unreported and unregulated fishing, build the institutional capabilities of Member States; integrating environmental, coastal and marine management considerations into fisheries policy so as to safeguard fisheries and associated ecosystems from anthropogenic threats and to mitigate the impacts of climate change and natural disasters; and transforming the fisheries sector towards being market-oriented, internationally-competitive and environmentally-sustainable, based on the highest international standards of quality assurance and sanitary and phyto-sanitary systems;
53. A number of Fundamental Principles (Article 5) will guide the implementation of the Agreement. Included among these Fundamental Principles are: use of the best available scientific information in decision-making, taking into consideration traditional knowledge and environmental, economic and social factors; application of the precautionary approach and the ecosystem approach to fisheries management; the principle that the level of fishing effort should not exceed that commensurate with the sustainable use of fisheries resources; the inclusion of stakeholders in all aspects of fisheries management, planning and development; the promotion of good governance of fisheries; and the principle of subsidiarity, in particular that the Competent Agency will only perform those tasks which cannot be more effectively achieved by individual States or Territories.
54. Article 7 sets out a general undertaking on implementation which commits States Parties to 'take all appropriate measures to secure the fulfilment of obligations arising under this Agreement'. States Parties are required to adopt detailed rules for the implementation of the Policy by means of Protocols. A non-exhaustive list of topics for which Protocols are required is given in Article 20. Article 7 also provides for States Parties to either establish or designate an existing regional organisation as the 'Competent Agency' for implementing the Agreement and its Protocols.
55. The basic role of the Competent Agency is to provide assistance, support, advice and coordination to States Parties in order to enable them in achieving the objectives of the Agreement (Article 8). The Competent Agency is also obliged to 'facilitate the development of strategic alliances and partnerships with relevant agencies created by multilateral environmental agreements as well as regional fisheries management organisations and arrangements and other relevant national, regional and international agencies and organisations, whether governmental or non-governmental' (Article 19).

56. Access to fisheries resources is addressed in Article 9, which reaffirms the discretion of States as provided for under UNCLOS, to enter into arrangements, including access agreements, with other States or international organisations, for the purposes of accessing fisheries in their respective waters. Article 9, however, goes on to encourage States Parties to develop opportunities and promote the equal participation in fisheries on the high seas and fisheries within the national jurisdictions of third States.
57. Article 10 addresses fisheries sector development in order to improve the welfare and socio-economic conditions of fishers and fishing communities. Article 11 sets out the commitments of States regarding statistics and fisheries related research and data collection, analysis and sharing. Article 12 sets out obligations of States Parties to formulate, adopt, implement and revise conservation and management measures and, where appropriate, fisheries management and development plans on the basis of the best available information. States Parties are obliged to 'cooperate with regional fisheries management organizations' (e.g. ICCAT) in the management of shared, straddling and highly migratory fish stocks.
58. Article 13 sets out requirements in relation to national registers of fishing vessels and national licensing system. States Parties are required to take into account available fisheries resources and fishing capacity when registering and licensing fisheries-related activities, and to establish a regional register of vessels licensed to fish in order to combat IUU fishing. Article 14 sets out obligations imposed upon States Parties in relation to enforcement measures. States Parties are to develop inspection and enforcement measures to protect the fisheries resources and ensure effective sanctions against violators.
59. Article 15 sets out the terms for confidentiality, ownership, and intellectual property of data and information products developed by States Parties and the Competent Agency, while Article 16 sets out the obligations of States Parties and the Competent Agency in respect of the dissemination of data and information, and notifications of Parties regarding threats to fisheries and marine ecosystems. Article 17 addresses transparency and public awareness by sharing of information with stakeholders and the public, including through educational programmes and institutions.
60. Marketing and Trade is dealt with in Article 18, which sets out obligations regarding the development of harmonised food quality assurance legislation, harmonised intra-regional sanitary and phyto-sanitary measures, common marketing standards for fisheries and aquaculture products, and policies related to marketing of fish and fishery products. These obligations are expressly subject to the obligations of States Parties under the Revised Treaty, World Trade Organisation agreements and other relevant international standards.
61. Article 21 deals with reporting, review and development of the Policy. The Competent Agency is required to submit annual reports to COTED and COFCOR regarding the implementation of the Policy.

States Parties are required to review the implementation of the Policy against its goals and objectives within 5 years after its entry into force.

62. The procedures for amending the Agreement are set out in Article 22. Article 23 incorporates the dispute settlement system established by the Revised Treaty to disputes regarding the interpretation or application of the Agreement, whether or not the parties to the dispute are parties to the Revised Treaty.
63. The closing articles establish the CARICOM Secretary General as the Agreement's depository (Article 24), specify the eligibility requirements for becoming a party to the Agreement (Articles 25-26), provides for entry into force upon signature by eight CARICOM Member States (Article 27), and sets out rules governing withdrawal of a State Party from the Agreement (Article 28).

CONCLUSION

64. The development of the Common Fisheries Policy was mandated by Heads of States in 2003. The Draft Agreement Establishing the Caribbean Community Common Fisheries Policy has been discussed, reviewed and accepted by stakeholders in the fisheries sector and by virtually all levels governments in the CARICOM Member States. It sets out a governance framework, policy direction and implementation arrangements based on international best practice that will transform the fisheries and aquaculture sector in the coming years to be more competitive, sustainable and profitable while at the same time creating new employment opportunities and improving food and nutrition security in the region. All that remains for the Policy to enter into force is final approval by signature of Heads of State or a duly authorized representative of the State. Two Member States, Barbados and Suriname, have already confirmed their readiness to sign the Draft Agreement.
65. Member States that have not yet done so, should take the necessary steps to ensure that: (i) national cabinets endorse the Draft Agreement, and (ii) Heads of States and Heads of Governments are briefed in preparation for signing as requested by the Seventh Meeting of the CRFM Ministerial Council in May 2013 (see paragraph 40 above); the Fourth Meeting of the CRFM Ministerial Council, 10 October 2013 (see paragraph 43); and the Special Meeting of the COTED (Agriculture), 11 October 2013 (see paragraph 44).

